

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.38844 of 2015

Arising Out of PS. Case No.-444 Year-2014 Thana- AURANGABAD COMPLAINT CASE
District- Aurangabad

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1. Shiv Shankar Bhagat Son of Late Lakhan Bhagat.
 2. Pawan Kumar, Son of Shiv Shankar Bhagat.
 3. Ranjeet Kumar, Son of Shiv Shankar Bhagat.
All resident of village- P.O. P.S.- Obra, District Aurangabad.

... .. Petitioner/s

Versus

1. The State Of Bihar
2. Ranjeet Kumar, Son of Rajendra Prasad, Resident of Village New Area Goh,
District- Aurangabad.

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. Birendra Kumar Singh, Advocate
For the State	:	Mr. Chandra Sen Prasad Singh, APP
For the O.P. No.2	:	None

CORAM: HONOURABLE MR. JUSTICE JITENDRA KUMAR
ORAL ORDER

15 06-12-2024 Heard learned counsel for the petitioners and learned
A.P.P. for the State. However, nobody is present on behalf of the
Opposite Party No.2.

2. The present petition under Section 482 of Cr.PC
has been preferred by the petitioners against the impugned order
dated 20.07.2015 passed by learned S.D.J.M., Daudnagar in
Complaint Case No. 444 of 2014, whereby cognizance of
offence has been taken against the petitioners, punishable under
Sections 323 and 379 of the Indian Penal Code, read with
Section 34 of the Indian Penal Code.



3. The relevant facts of the case is that initially Criminal Complaint bearing No. 59 of 2013 was filed by the complainant/Ranjeet Kumar under Section 156 (3) Cr.PC for directing the police to register F.I.R. and investigate the matter. The said complaint was allowed and Obra P.S. Case No. 49 of 2014 was registered on 19.05.2014 for offence punishable under Sections 147, 323, 385 and 379 of the Indian Penal Code and Section 27 of the Arms Act against the petitioners.

4. However after investigation, police found the case false and hence, final form was submitted and complaint for offence punishable under Sections 182 and 211 of the Indian Penal Code was filed by the police against the complainant. Against the final form filed against the petitioners, the complainant filed protest, which was registered as the Criminal Complaint bearing No. 444 of 2014 in which the learned S.D.J.M., Daudnagar has taken cognizance by the impugned order after examining the complainant and two other witnesses.

5. As per the statement of the complainant during inquiry under Section 200 Cr.PC, it was alleged that on the date of occurrence he was driving his motorcycle bearing No. BR-1AM-5192 and when he reached the place of occurrence, the accused persons came and stopped his motorcycle and accused



Shiv Shankar Bhagat put *Gamchha* around his neck and accused Pawan Kumar stated that he should be shot dead. Accused Ranjeet @ Bhola took out Rs.5,000/- from the pocket of his jeans and Shiv Shankar Bhagat also started pressing his neck. Upon arrival of some other persons on the place of occurrence, the accused persons fled away. The other witnesses who were friends of the complainant has also made similar statements.

6. Learned counsel for the petitioners submits that petitioners are innocent and have been falsely implicated. He further submits that petitioner/Shiv Shankar Bhagat is father-in-law of the complainant, whereas petitioners, namely, Pawan Kumar and Ranjeet Kumar are brothers-in-law and it is admitted by the complainant in his statement that there is already one criminal complaint for offence punishable under Section 498A of the Indian Penal Code has been lodged by his wife which is still pending for consideration. He further submits that there is no truth in the allegation and falsity of the case is manifest in the fact that there is no proof of any injury whatsoever filed along with the complaint. He further submits that on the same complaint, F.I.R. was lodged and matter was properly investigated and police has found no truth in the allegation and case was finalized against the petitioners but by abuse of the



process of the Court, the complainant filed protest petition, which was registered as Criminal Complaint and the impugned order has been passed.

7. He further submits that the whole complaint is nothing but filed with *mala fide* with intent to harass the father and brothers of his wife, who has filed a Criminal Complaint under Section 498A on account of cruelty committed by him against his wife. Hence, the impugned order is not sustainable in the eye of law and the same should be set aside to prevent the abuse of the process of the Court and meet the ends of justice.

8. However, learned APP defends the impugned order submitting that there is no illegality or infirmity in the impugned order.

9. I considered the submissions advanced by both the parties and perused the materials on record.

10. I find that on the same set of facts, the matter was investigated by the police and police has found no truth in the allegation and hence, the case was finalized against the petitioners. It further appears that the complaint has been filed by the complainant with ill intent to harass the father and brothers of his wife, who has filed a Criminal Complaint under Section 498A of the Indian Penal Code.



11. In the celebrated judgment of **State of Haryana vs Bhajan Lal [1992 Suppl (1) SCC 335]**, Hon'ble Supreme Court has held, amongst other things, where a criminal proceeding is manifestly attended with mala fide and/or where the proceeding is maliciously instituted with an ulterior motive for wreaking vengeance on the accused and with a view to spite him due to private and personal grudge, the inherent power under Section 482 Cr.PC may be invoked by the Court to prevent the abuse of the process of Court and secure the ends of justice.

12. Hence, the impugned order is not sustainable in the eye of law. It is liable to be quashed and set aside under Section 482 Cr.PC to prevent abuse of the process of Court and to secure the ends of justice.

13. Accordingly, this application is allowed, quashing and setting aside the impugned order dated 20.07.2015 passed by learned Sub-Divisional Judicial Magistrate, Daudnagar, in Complaint Case No. 444 of 2014.

(Jitendra Kumar, J.)

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