

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.60163 of 2023

Arising Out of PS. Case No.-415 Year-2023 Thana- CIVIL LINE District- Gaya

1. Ranjeet Singh @ Ranjeet Kumar Singh S/O Late Shatrudhan Prasad Singh R/O Shanti Market, North Gandhi Maidan, Opposite Union Church, P.S- Civil Lines, Distt.- Gaya. Presently Residing At Flat No. 1201, Yantra Tower, Paramount Symphony Road, P.S. - Crossings Republic, Ghaziabad, Uttar Pradesh- 201016.
2. Rajeev Kr. Singh @ Rajeev Singh S/O Late Shatrudhan Prasad Singh @ Santan Prasad Singh R/O Shanti Market, North Gandhi Maidan, Opposite Union Church, P.S- Civil Lines, Distt.- Gaya. Presently Residing At 33/23 Thornhill Road, Anapur Kothi Near Ag Office, P.S.-CIVIL Lines, Allahabad, Uttar Pradesh.
3. Amit Singh @ Amit Kumar S/O Rajeev Singh R/O Shanti Market, North Gandhi Maidan, Opposite Union Church, P.S- Civil Lines, Distt.- Gaya.
4. Abhijit Singh S/O Rajeev Singh R/O Shanti Market, North Gandhi Maidan, Opposite Union Church, P.S- Civil Lines, Distt.- Gaya.

... .. Petitioner/s

Versus

1. The State Of Bihar
2. Devendra Kumar Jain S/O Late Kastur Chand Jain R/O West Public Library, North Church Road, Gandhi Maidan, P.S.- Civil Line, Gaya, Bihar-823001.

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Siddhartha Prasad
For the Opposite Party/s : Dr. Ajeet Kumar

CORAM: HONOURABLE MR. JUSTICE SATYAVRAT VERMA
ORAL ORDER

- 3 16-01-2024 1. Heard learned counsel for the petitioners and learned APP along with learned counsel for the OP No. 2.
2. The learned counsel for the petitioners submits that the present quashing application has been filed seeking quashing of the FIR being Gaya Civil Lines PS Case No. 415 of 2023 registered under Section Sections 384, 385, 504, 506, 427 and 34 of the IPC.



3. Learned counsel next submits that a civil dispute has been given a criminal colour. It is further submitted that what is not in dispute rather stands admitted is that petitioner Nos. 1 and 2 are landlords and OP No. 2 is their tenant and petitioner Nos. 3 and 4 are sons of petitioner Nos. 1 and 2 respectively. It is next submitted that the OP No. 2 herein instituted the aforesaid FIR alleging that he is running an auto shop since 1998 in the market complex of Ranjeet Singh (petitioner No. 1) at civil lines where his godown is also situated, which he had taken on rent from its owner Rajeev Singh (petitioner No. 2). It is next alleged that the petitioner Nos. 1 and 2 are compelling to increase the rent and security amount and when the same was not agreed upon by the informant, the petitioner nos. 1 and 2 and their family members started acting criminally, further on 5-4-2023, while the informant's son was going to open the shop, he was obstructed by the accused persons and was abused, and they snatched the keys of the shop and restrained him from opening the shop. It is next alleged that in the intervening night of 26-27/06/2023, the accused person had thrown the entire goods lying in the shop and thereafter Amit Singh (petitioner No. 3) called the informant and informed him that the goods were lying outside the shop



and requested to take it from the said place. Accordingly, when he reached the shop, he found that his goods were thrown out from the shop and many expensive things are missing. Accordingly, the FIR was instituted.

4. The learned counsel for the petitioners thus submits that from perusal of the allegation as alleged in the FIR, it would manifest that the dispute was purely civil to which a criminal color was given, it is next submitted that it is not in dispute that OP no. 2 was the tenant of petitioner nos. 1 and 2, but then he has implicated the entire family members in a criminal case only with a view to ensure that his tenancy in the premise of the petitioner nos. 1 and 2 runs uninterrupted under the fear of a criminal case.

5. The learned counsel for the petitioners next submits that the OP No. 2 had also filed CWJC No. 7729 of 2023 before this court with a prayer to put the OP No. 2 herein back in possession in the rented premises, thereafter the learned counsel draws the attention of the Court to para-3 of the order dated 12-12-2023 passed in CWJC No. 7729 of 2023 to submit that a learned Coordinate Bench, while dismissing the writ application, had observed based on the pleadings made in the writ petition that it was the petitioner (OP No. 2 herein) who is



harassing the landlords (petitioners herein).

6. The learned counsel next submits that OP No. 2 herein had also instituted Rent Control Case No. 453 of 2022 in the court of learned Rent Controller. The said case came to be dismissed by an order dated 17-2-2023 (Annexure-6 to the quashing application) wherein the learned Rent Controller recorded that OP No. 2 did not produce any evidence regarding his tenancy of the premises in question. The learned counsel thus submits that it was the OP No. 2 who had approached this court by filing CWJC No. 7729 of 2023 and thereafter, the court of learned Rent Controller by filing Rent Control Case No. 453 of 2022, but then both the cases came to be dismissed. The writ application was dismissed with certain observation and on the ground that the facts were disputed, whereas the rent control case was also dismissed on similar ground that the OP No. 2 was not in a position to satisfy the court about the tenancy with respect to premises in question.

7. The learned counsel next submits that no doubt the OP No. 2 was the tenant of petitioner Nos. 1 and 2, but he had left the tenancy on his own and thus was not in a position to satisfy the learned Rent Controller about his tenancy, nor he was appearing in the case on regular basis.



8. The learned counsel thus submits that now-a-days it has become a fashion to enter into a premise as a tenant and thereafter harass the landlord by filing frivolous criminal cases. It is also submitted that if what has been alleged in the FIR is true, in that event, the OP No. 2 could have moved before the civil court for seeking appropriate relief but resorting to criminal case with exaggerated allegations is nothing but an abuse of the process of law.

9. The learned counsel for the OP No. 2 submits that from perusal of the allegation as alleged in the FIR, it would manifest that *prima facie* a case is made out against the petitioners, as such, the court should be reluctant in interfering with the FIR at this stage. It is next submitted that para-4 of the quashing application itself supports the case of the OP No. 2.

10. The submission made by the learned counsel appearing on behalf of OP No. 2, on the face of it, appears to be attractive, but when analysed in facts of the case as recorded hereinabove, it is fit to be rejected for the reason that the dispute was purely civil to which a criminal colour was given and it was the OP No. 2, who had approached this court in its writ jurisdiction as well as the court of the learned Rent Controller, but both his writ application and the rent control case were



dismissed, as recorded hereinabove. Since the dispute was civil in nature, as such the OP No. 2, while instituting the FIR, in order to give a criminal colour to the case, alleged that his son was obstructed by the accused persons from the opening the shop and the goods were thrown out from the shop along with many expensive goods, which were missing, the said allegations are nothing but an exaggeration, when the OP No. 2 himself had vacated the premises of the petitioner nos. 1 and 2, as recorded earlier. If what has been alleged by the OP No. 2 is true then in that event, he is not denuded of approaching the civil court for seeking appropriate remedy.

11. The learned counsel for the petitioners, at this stage, submits that during pendency of the aforesaid rent control case, the OP No. 2 herein decided to vacate the premises since he found a suitable place for shifting his shop and thereafter removed his belongings willingly, but despite removing his belongings, the OP No. 2 continued with the aforesaid case with a view to harass the petitioners. It is also submitted that in absence of the challenge of the order dated 17-2-2023 passed by the learned Rent Controller-cum-Sub-divisional Magistrate, the order has attained finality. It is also submitted that OP No. 2 also filed Title Suit No. 1118 of 2023 in the court of learned Munsif-



I, Gaya, wherein the petitioner no. 1 herein has been implicated as defendant and the prayer has been made for restraining the petitioner No. 1 from dispossessing the OP No. 2 from the rented premise. It is thus submitted that the OP No. 2, on the one hand, is availing his remedies available in law and at the same time, is also trying to coerce the petitioners into submission by instituting frivolous criminal cases. It is next submitted that apart from the present FIR, the OP No. 2 has also instituted Complaint Case No. 1943 of 2022 under Sections 427, 452, 406, 385 and 120B of the IPC in the court of learned CJM, Gaya against the petitioner nos. 2 and 3. It is thus submitted that these facts amply demonstrate that the OP No. 2 is only interested in harassing the petitioners.

12. It is further submitted that the pleadings made in para-4 of the quashing application, in no way, supports the case of the OP No. 2 as it was the OP No. 2 who had petitioned the SDO for deputing an officer for making inventory of the goods which he had kept outside the rented premise and the entries were also made in presence of the BDO, the same was a ploy at the behest of the OP No. 2 in order to substantiate his allegations in the FIR, when he himself had vacated the premises during pendency of the rent control case as such he



was not even appearing on regular basis before the learned Rent Controller, as recorded hereinabove.

13. Considering the submissions made by the learned counsel for the petitioners and the fact that dispute was civil to which criminal colour was given with an exaggerate allegation, the FIR being Gaya Civil Lines PS Case No. 415 of 2023 registered under Section Sections 384, 385, 504, 506, 427 and 34 of the IPC, is hereby quashed.

(Satyavrat Verma, J)

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