

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.20465 of 2016

Arising Out of PS. Case No.-3688 Year-2015 Thana- PATNA COMPLAINT CASE District-
Patna

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1. Sanjeev Kumar and Ors son of Late Gulab Chandra Sharaf, resident of
 2. Shivesh Narayan son of Sri Ishwar Narayan resident of
 3. Navin Kumar son of Sri Naval Kishore Singh, resident of
 4. Akshaya Kumar son of Late Lallu Prasad, All at Karlo Automobile Pvt. Ltd.,
Boring Road, P.S.- S.K. Puri, District- Patna

... .. Petitioner/s

Versus

1. State of Bihar
2. Puspolata Kumari daughter of Krishna Prasad, Resident of Gali No. 4,
Mahant Hanuman Sharan College, L.C.T. Ghat, P.S.- Patliputra Colony,
P.O.- Patliputra Colony, District- Patna

... .. Opposite Party/s

with

CRIMINAL MISCELLANEOUS No. 22098 of 2016

Arising Out of PS. Case No.-3688 Year-2015 Thana- PATNA COMPLAINT CASE District-
Patna

Gaurav Ranjan son of Sri Ramanuj Singh, resident of House No.143, Sheetal
Sadan, North Anandpur, P.S.- S.K. Puri, District- Patna- 800001.

... .. Petitioner/s

Versus

1. State of Bihar
2. Pushplata Kumari daughter of Krishna Prasad resident of Gali No.4, Mahant
Hanuman Sharan College, L.C.T. Ghat, P.S.- Patliputra Colony, P.O.
Patliputra Colony, District- Patna.

... .. Opposite Party/s

Appearance :

(In CRIMINAL MISCELLANEOUS No. 20465 of 2016)

For the Petitioner/s	:	Mr. Tuhin Shankar, Advocate
	:	Mr. Gopal Kumar, Advocate
	:	Ms. Simran Kirti, Advocate
For the O.P. No. 2	:	Mr. Ranjan Kr. Singh, Advocate
	:	Mr. Rajesh Kr. Sinha, Advocate
For the State	:	Mr. Navin Kr. Pandey, APP

(In CRIMINAL MISCELLANEOUS No. 22098 of 2016)

For the Petitioner/s	:	Mr. Tuhin Shankar, Advocate
	:	Mr. Gopal Kumar, Advocate
	:	Ms. Simran Kirti, Advocate



For the O.P. No. 2 : Mr. Ranjan Kr. Singh, Advocate
: Mr. Rajesh Kr. Sinha, Advocate
For the State : Mr. Navin Kr. Pandey, APP

CORAM: HONOURABLE MR. JUSTICE CHANDRA SHEKHAR JHA
ORAL JUDGMENT
Date : 09-04-2024

Heard learned counsel for the petitioners
and learned counsel for the respondents.

2. The present quashing petition has been preferred to quash the order dated 28.01.2016 passed in Complaint Case No. 3688(c) of 2015, where learned Judicial Magistrate 1st Class, Patna took cognizance for the offences punishable under Sections 355, 506 and 379/34 of the Indian Penal Code (in short IPC) against the petitioners.

3. From the complaint petition it appears that complaint case in issue filed by one Pushplata Kumari who is said to have been working as Sales Executive at M/s. Karlo Automobile Pvt. Ltd. It is stated by the complainant that on 06.05.2015 when her brother came to meet her she was called by the Sale Manager, Gaurav Ranjan one of the accused in his office cabin where accused No. 2 to 5 were already present who assaulted



her and tried to make illicit relation with her but could not do so due to interference of her brother. It is alleged by the complainant that the accused persons threatened her that as she not made relation with them they will put her in danger. It is further stated by the complainant that during her service period i.e. on 25.05.2015 the Sale Manager, Gaurav Ranjan delivered a Swift Dzire car to one Awadhesh Singh. It is further stated that neither she was connected with the delivery of the said car nor she had any knowledge about its payment and was not her duty but due to wrongful intention to assault and exploit the complainant the said Gaurav Ranjan and other petitioners instituted a false case against complainant bearing S.K. Puri Police Case No. 256 of 2015 dated 15.7.2015. It is further alleged that the accused No. 1 forcibly snatched mobile phone bearing No. 8507591419 and 9308525100 and did not return the same and forcibly took her signature on plain paper and kept with him. It is further stated that when



complainant came to know about the S.K. Puri case, complainant filed a reply cum complaint to the S.S.P. Patna with a copy to City S.P. and Dy. S.P., Sachiwalaya but police did not institute a case against the accused persons leaving no option but to file the present complaint case. The complainant was subsequently examined on Solemn Affirmation on 10.11.2015 and also produced and examined four witnesses on her behalf who were Raju Kumar, the complainant's brother, Krishna Prasad, the complainant's father, Renu Singh her ex-colleague and ex-employee of the M/s. Karlo Automobile and Siddheshwar Prasad her maternal uncle.

4. Learned counsel appearing on behalf of petitioners submitted that O.P. No. 2 was the employee of the M/s. Karlo Automobile Pvt. Ltd., where all petitioners were Executive of higher rank. It is submitted that when O.P. No. 2 sold one car by creating forged and fabricated document without giving any official information to petitioners, a case was lodged by co-



accused Gaurav Ranjan against O.P. No. 2 and just as to counter said case as a retaliatory measures with ulterior and oblique motive the present complaint was filed, which is fit to be quashed and set aside.

5. It is further submitted that present case was lodged after three and half months (approximately 105 days) of lodging S.K. Puri P.S. Case No. 256 of 2015 dated 15.07.2015 by co-accused Gaurav Ranjan. It is further submitted that all enquiry witnesses are relative of O.P. No. 2. They are also contradicting each other on material aspects. While concluding the argument learned counsel relied upon the legal report of Hon'ble Supreme Court in the case of **State of Haryana and Others vs. Bhajan Lal and Others reported in 1992 Supp (1) Supreme Court Cases 335.**

6. Learned APP duly assisted by learned counsel appearing on behalf of O.P. No. 2, while opposing the application submitted that in view of



allegation of snatching mobile phone by co-accused Gaurav Ranjan the, *prima facie*, case for theft is made out against petitioners and co-accused persons and as such impugned order of cognizance cannot be said bad in eyes of law.

7. It would also be apposite to reproduce the paragraph no. 102 of the **Bhajan Lal Case (supra)**, which reads as under:

“102. In the backdrop of the interpretation of the various relevant provisions of the Code under Chapter XIV and of the principles of law enunciated by this Court in a series of decisions relating to the exercise of the extraordinary power under Article 226 or the inherent powers under Section 482 of the Code which we have extracted and reproduced above, we give the following categories of cases by way of illustration wherein such power could be exercised either to prevent abuse of the process of any court or otherwise to secure the ends of justice, though it may not be possible to lay down any precise, clearly defined and sufficiently channelised and inflexible guidelines or rigid formulae and to give an exhaustive list of myriad kinds of cases wherein such power should be exercised.

(1) Where the allegations made in the first information report or the complaint,



even if they are taken at their face value and accepted in their entirety do not prima facie constitute any offence or make out a case against the accused.

(2) Where the allegations in the first informant report and other materials, if any, accompanying the FIR do not disclose a cognizable offence, justifying an investigation by police officers under Section 156(1) of the Code except under an order of a Magistrate within the purview of Section 155(2) of the Code.

(3) Where the uncontroverted allegations made in the FIR or complaint and the evidence collected in support of the same do not disclose the commission of any offence and make out a case against the accused.

(4) Where, the allegations in the FIR do not constitute a cognizable offence but constitute only a non-cognizable offence, no investigation is permitted by a police officer without an order of a Magistrate as contemplated under Section 155(2) of the Code.

(5) Where the allegations made in the FIR or complaint are so absurd and inherently improbable on the basis of which no prudent persons can ever reach a just conclusion that there is sufficient ground for proceeding against the accused.

(6) Where there is an express legal bar engrafted in any of the provisions of the Code or the concerned Act (under which a criminal proceeding is instituted) to the institution and continuance of the proceedings and/or where there is a specific provision in the Code or the concerned Act,



providing efficacious redress for the grievance of the aggrieved party.

(7) 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."

8. In view of aforesaid factual and legal discussions, as admittedly O.P. No. 2 was employee of petitioners, where prior to lodging the complaint case, for the wrong delivery of new car on the basis of forged and fraudulent document, co-accused Gaurav Ranjan lodged a case, registered as S.K. Puri P.S. Case No. 256 of 2015, suggesting the present complaint was lodged as retaliatory measures out of ulterior and oblique motive. It also appears that no, *prima facie*, case made out against petitioners, who are higher rank Executive at M/s. Karlo Automobile Pvt. Ltd. It appears that core issue as to make an attempt to establish illicit physical relation was not supported by even complainant through her S.A. Accordingly, by taking note of guidelines as



mentioned in para nos. 1, 5 and 7 of **Bhajan Lal (supra)**, impugned order of cognizance dated 28.01.2016 with all its consequential proceedings, *qua*, petitioners arising thereof as passed in Complaint Case No. 3688(c) of 2015, pending before learned Judicial Magistrate 1st Class, Patna is hereby quashed and set aside.

9. The application stands allowed.

10. Let a copy of this judgment be sent to learned Trial Court, immediately.

(Chandra Shekhar Jha, J.)

S.Tripathi/-

AFR/NAFR	AFR
CAV DATE	
Uploading Date	
Transmission Date	

