

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.62555 of 2023

Arising Out of PS. Case No.-692 Year-2023 Thana- SIKARPUR District- West Champaran

Rahul Kumar (Male), son of Surendra Singh, resident of village- Ahiyapur
(Chhoti), Po- Sakri Chowki, PS- Arwal, Dist- Arwal.

... .. Petitioner

Versus

1. The State of Bihar
2. Samina Khatun (female), daughter of knot known, presently posted as
Revenue Officer, Narkatiaganj, Dist- West Champaran

... .. Opposite Parties

Appearance :

For the Petitioner	:	Mr. Prashant Kumar, Advocate
For the State	:	Mr. Dilip Kumar No. 1, APP
For the Opp. Party no.2	:	Mr. Vikash Kumar Jha, Advocate

CORAM: HONOURABLE MR. JUSTICE SANDEEP KUMAR

ORAL JUDGMENT

Date : 30-10-2024

Heard learned counsel for the petitioner, learned
APP for the State and learned counsel for the opposite party
no.2.

2. This application has been filed for quashing
of the F.I.R. vide Shikarpur P.S. Case No.692 of 2023 registered
for the offence under sections 341, 323, 354, 504 and 506 of the
Indian Penal Code.

3. The informant (opposite party no.2) is the
Revenue Officer and the petitioner is the Circle Officer of
Narkatiyaganj, District- West Champaran. It has been alleged in
the F.I.R. that while some discussions were made in the office



of the Circle Officer regarding some official work, suddenly the Circle Officer became aggressive and started abusing the informant with filthy language and thereafter ordered the Anchal Guard to oust the informant from the office. In the meantime, the wife of the Circle Officer came and interfered in the matter and made her to sit in another room but the Circle Officer did not stop. He again came to the room where the informant was sitting and started assaulting her with fist and slaps.

4. Learned counsel for the petitioner submits that from perusal of the allegations as alleged in the F.I.R., it appears that the F.I.R. has been instituted sixteen days after the occurrence without any plausible explanation and the delay in instituting the F.I.R. itself makes the allegations vulnerable. He further submits that from perusal of the allegation, it also appears that the same does not allege the time of the occurrence.

5. Learned counsel for the petitioner further submits that the petitioner was going on leave from 16.08.2023 to 19.08.2023, for which an application was being typed in his office that in his absence, the charge would be handed over to the B.D.O., Narkatiaganj, which was objected by the informant



on the ground that the charges should not be handed over to the B.D.O. when she would remain present and is an officer next to the petitioner in the Sub-Division, on account of which, an altercation took place, but for reasons best known to the informant, the present F.I.R. came to be instituted with an exaggerated allegation.

6. It has been submitted by learned counsel for the petitioner that the allegations made in the F.I.R. are completely improbable and unbelievable. A typed copy of the F.I.R. was given on 30.08.2023 at 08:30 P.M. alleging therein that the incident took place on 14.08.2023 in the office without indicating the time of incident. From bare reading of the F.I.R. between the lines, it is apparent that the F.I.R. was drafted so as to meet the necessary ingredients of the alleged offence. In support of this submission, he has relied upon the decision of the Hon'ble Supreme Court rendered in the case of ***Mahmood Ali and Others vs. State of U.P and Ors.*** reported as ***2023 SCC OnLine SC 959.***

7. It has also been submitted that the petitioner is a man of means and has an unblemished service career without any complaint from any corner and the present case is nothing but has been lodged with a view to wreaking



vengeance. In support of this contention, he has relied upon the decision of the Hon'ble Supreme Court rendered in the case of *State of Haryana and Others vs. Bhajan Lal and Others* reported as *1992 Suppl. (1) SCC 335*.

8. Learned counsel for the petitioner has drawn the attention of this Court to a letter dated 09.06.2008 issued by the then Principal Secretary, Home Department, Bihar and has submitted that in the said letter, it has been stated that before instituting an F.I.R./complaint against a Government servant, it is required to check whether *mens rea* is inherent in the conduct of the official or not. In this case, *mens rea* is completely lacking as it is apparent from bare perusal of the F.I.R. that on 14.08.2023 the petitioner was working in his office and during the course of conversation he became angry and started abusing the informant. In the later part of the F.I.R. the false and frivolous allegation of assaulting the informant was made only with a view to constitute the cognizable offence.

9. Learned counsel for the petitioner has drawn the attention of this Court to Sections 341, 323, 354, 504 and 506 of the Indian Penal Code and has submitted that none of the ingredients of any of the aforesaid sections are attracted in the present case against the petitioner since there is no averment in



the F.I.R. about wrongfully restraining the informant by the petitioner and therefore, the essential ingredients of section 341 of the Indian Penal Code are not attracted. Further, the F.I.R. does not even whisper of the fact about the outraging the modesty of the informant and therefore, the ingredients of section 354 of the Indian Penal Code is also not attracted in the present case.

10. It has been submitted that for attracting section 504 of the Indian Penal Code, the essential ingredients is that there must be an intention in the mind of the accused to insult or provoke any person. The knowledge of the result of such provocation and insult should already be there in the mind of the accused. So the knowledge and the intention of the provocation should be there in the mind of the accused which should be correlated with breaking the public peace and harmony. Therefore, the essential ingredients of section 504 of the Indian Penal Code is also not attracted in the present case.

11. Learned counsel for the petitioner placed reliance on the decision rendered in the case of ***Rambaran Mohton vs. The State of Bihar*** reported in ***AIR 1958 PAT 452*** and has submitted that in the aforesaid decision it has been held that to constitute an offence of voluntarily causing hurt, there



must be complete correspondence between the result and the intention or the knowledge of the accused.

12. Learned counsel for the petitioner has relied on a decision of the Hon'ble Supreme Court rendered in the case of ***Mohammad Wajid & Anr. vs. The State Of UP. & Ors.*** (Criminal Appeal No.2340 of 2023 (arising out of S.L.P. (Criminal) No.10656 of 2022) wherein the Hon'ble Supreme Court while quashing the F.I.R. instituted for offence under Sections 395, 504, 506 and 323 of the Indian Penal Code (IPC) has held in paragraph nos. 26, 27 and 28 as under:

“26. Mere abuse, discourtesy, rudeness or insolence, may not amount to an intentional insult within the meaning of Section 504, IPC if it does not have the necessary element of being likely to incite the person insulted to commit a breach of the peace of an offence and the other element of the accused intending to provoke the person insulted to commit a breach of the peace or knowing that the person insulted is likely to commit a breach of the peace. Each case of abusive language shall have to be decided in the light of the facts and circumstances of that case and there cannot be a general proposition that no one commits an offence under Section 504, IPC if he merely uses abusive language against the complainant. In King Emperor v Chunnibhai Dayabhai, (1902) 4 Bom LR 78, a Division



Bench of the Bombay High Court pointed out that:

"To constitute an offence under Section 504, I.P.C. it is sufficient if the insult is of a kind calculated to cause the other party to lose his temper and say or do something violent. Public peace can be broken by angry words as well as deeds."

- 27. A bare perusal of Section 506 of the IPC makes it clear that a part of it relates to criminal intimidation. Before an offence of criminal intimidation is made out, it must be established that the accused had an intention to cause alarm to the complainant.*
- 28. In the facts and circumstances of the case and more particularly, considering the nature of the allegations levelled in the FIR, a prima facie case to constitute the offence punishable under Section 506 of the IPC may probably could be said to have been disclosed but not under Section 504 of the IPC. The allegations with respect to the offence punishable under Section 504 of the IPC can also be looked at from a different perspective. In the FIR all that the first informant has stated is that abusive language was used by the accused persons. What exactly was uttered in the form of abuses is not stated in the FIR. One of the essential elements, as discussed above, constituting an offence under Section 504 of the IPC is that there should have been an act or conduct*



amounting to intentional insult. Where that act is the use of the abusive words, it is necessary to know what those words were in order to decide whether the use of those words amounted to intentional insult. In the absence of these words, it is not possible to decide whether the ingredient of intentional insult is present.”

13. By making the aforesaid submissions and also by relying on the aforesaid decisions, it has been submitted by learned counsel for the petitioner that after reading the averments made in the F.I.R. it is apparently clear that no offence is made out against the petitioner and the same is lodged with an ulterior motive and for wreaking vengeance as both the informant and the petitioner were working in the same department and the informant being a subordinate to the petitioner got angry for not handing over the charge of the petitioner while he was going on leave and on account of which, an altercation took place and due to private and personal grudge, the present F.I.R. has been lodged.

14. In this case, the informant (opposite party no.2) has filed a counter affidavit, in which it has been stated that as per letter dated 28.02.2023 issued by the Secretary, Land Reforms Department, the task of mutation was equally divided



between the Circle Officer (C.O.) and the Revenue Officer (R.O.). Prior thereto, it was the exclusive domain of the C.O. Disregarding the mandate of letter dated 28.02.2023, the petitioner was not allowing the informant to exercise power and deal with the files relating to mutation. She was ultimately assigned the work after considerable delay and it was only for this reason that the petitioner was generally rude and discourteous to the informant. This alone was the real background in which the alleged crime in question was committed by the petitioner in broad daylight in public office.

15. It has also been alleged in the counter affidavit that as per letter dated 28.02.2023, the CO is obliged to handover the charge of his office to the concerned RO in his absence. The conduct of the petitioner was contrary to the guidelines issued by the department. Since the petitioner was not ready to tolerate the informant in the office, he exceeded all limits on the alleged day of occurrence and went to the extent of physically assaulting and abusing the informant.

16. It has also been alleged in the F.I.R. that so far as the plea of belated registration of FIR is concerned, the same is misconceived as the date of occurrence is of 14.08.2023 and on the next day everyone was occupied on 15.08.2023



because of Independence Day Celebration, the informant formally presented her complaint before the DM, West Champaran on 16.08.2023 itself, which contained detailed narration of the entire occurrence dated 14.08.2023. Immediately thereafter, a show cause notice was issued to the petitioner on the same day under the signature of ADM, West Champaran. The petitioner submitted his reply on 17.08.2023, wherein he denied the allegations and suggested that since he was giving his charge to B.D.O Narkatiaganj as he was going on leave, the informant misbehaved with him and in order to save her skin, she designedly presented a complaint against him in advance. In the meanwhile, the informant visited local Police Station and presented her complaint, which led to the registration of the impugned F.I.R. on 30.08.2023. It is, thus, clear that the informant first pursued the matter before local administration without any delay and thereafter, the FIR was registered.

17. It has also been alleged in the counter affidavit that in the meanwhile, letter no. 11 dated 03.01.2024 was issued for initiation of departmental proceeding against the petitioner. That it is no less bizarre a submission that since the time of occurrence was not given in FIR and no physical injury



was sustained by the petitioner, the allegations contained in the FIR are not believable. It is a matter of record that during the course of investigation and also during supervision, the allegations leveled in the FIR has been found true against petitioner. Even after the alleged occurrence, the petitioner entered inside the chamber of the informant and pleaded repeated apology and insisted her to withdraw her complaint.

18. It has also been alleged in the counter affidavit that the conduct of the petitioner has ever been aggressive with one and all. Though he claims to be a man with unblemished past, the truth is otherwise. On 03.12.2020, the petitioner misbehaved and assaulted a lawyer, who also happens to be the elected Executive Member of District Bar Association, Narkatiyaganj, West Champaran. He then presented a complaint in this regard before learned District Judge and others on 04.12.2020. The District Bar Association also forwarded its resolution to the District Judge and the same was duly forwarded by the District Judge to the DM, West Champaran on 11.12.2020 for needful action. In past, he had also assaulted and detained one private individual in his office, for which, he had also presented a complaint on oath against the petitioner. Lastly, the employees of Nagar Parishad also went on strike against the



behavior of the petitioner. The matter was widely reported in local newspapers. The petitioner was even served show cause by the S.D.O and a committee was also constituted to enquire into the matter which was essentially with respect to the rude and intimidating behavior of the petitioner. Thus, the allegations contained in the F.I.R. is rather consistent with his habitual behavior in past.

19. It has also been alleged that in an desperate attempt to find an escape route, the petitioner has brought on record the medical papers of the informant to plead that the petitioner is a patient and is not in the best of her mental health. The informant is in public servant for a considerable period of time. Before entering in the present service, she has also worked in the Indian Railways and Postal Department. All through, she has ever discharged her function diligently and till date, no question has ever been raised on her mental alertness, competence and efficiency.

20. The opposite party no.2 has relied upon the decision rendered in the case of *Lalita Kumari vs. Govt. of UP* reported in (2008) 14 SCC 337 and has submitted that in the aforesaid decision it has been held by the Hon'ble Supreme Court that once an information is received regarding



commission of a cognizable offence, the police is obliged and under legal duty to register FIR.

21. I have considered the submissions of the parties and perused the materials on record.

22. The main grounds of the petitioner for quashing of the F.I.R. is that the F.I.R. has been instituted after sixteen days of delay and in the F.I.R. no plausible explanation has been given by the informant for the aforesaid delay and the F.I.R. has been filed malafidely.

23. From perusal of the allegations, as alleged in the F.I.R., it appears that the for an incident which has occurred on 14.08.2023, the F.I.R. has been lodged on 30.08.2024 i.e. after a delay of sixteen days that too without any plausible explanation in the F.I.R. Therefore, it seems to be an afterthought and the delay caused in lodging of the F.I.R. is damaging the prosecution case. Further, the F.I.R. does not even indicate the specific time of the occurrence.

24. It appears from the records of the case that the dispute emanates from handing over the charge while the petitioner was going on leave. There appears to be some animosity between the petitioner and the informant which is also clear from the statement made by the informant in her



counter affidavit wherein she herself stated that the petitioner was not allowing her to deal with the files relating to mutation but ultimately the informant was assigned the said work after considerable delay and according to the informant, for this very reason, the petitioner was generally rude and discourteous towards the informant. Further, the informant relying upon the letter dated 28.02.2023 issued by the Secretary, Land Reforms Department has stated in paragraph no.6 of the counter affidavit that in absence of the C.O. the charge would be handed over to the concerned R.O. but the petitioner was not handing over his charge when he was on leave. Therefore, it appears that the present F.I.R. has been instituted by the informant with *mala fide* intention for wreaking vengeance due to private and personal dispute. Moreover, from the records of the case, it appears that on the complaint preferred by the informant, the petitioner was served a show cause notice and subsequently a departmental proceedings was initiated against the petitioner. Therefore, it appears that the dispute among the parties was deliberately given criminal colour to harass the petitioner. As the dispute among the parties emanates due to the official work, the petitioner should not be subjected to the rigors of criminal trial.



25. In the case of *State of Haryana & Ors. vs. Bhajanlal & Ors. (supra)*, the Hon'ble Supreme Court has delineated the circumstances where an F.I.R. or the charge-sheet can be quashed, which are as follows:-

“(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 information 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 person 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 Act concerned (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 Act concerned, 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.”

26. In view of the aforesaid reasons discussed hereinabove and applying the law laid down in the case of ***Bhajan Lal (supra)***, I am of the view that the present F.I.R. has been instituted with an ulterior motive due to preexisting private and personal grudge and also as an afterthought. Therefore, the present F.I.R is fit to be quashed.

27. Accordingly, this application is allowed. The F.I.R. vide Shikarpur P.S. Case No.692 of 2023 registered for the offence under sections 341, 323, 354, 504 and 506 of the



Indian Penal Code and all consequential proceedings arising out
of the aforesaid F.I.R. are hereby quashed.

(Sandeep Kumar, J)

pawan/-

AFR/NAFR	N.A.F.R.
CAV DATE	N/A.
Uploading Date	30.10.2024
Transmission Date	30.10.2024

