

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.9060 of 2020

Arising Out of PS. Case No.-350 Year-2018 Thana- DARBHANGA COMPLAINT CASE
District- Darbhanga

=====

BHUBNESHWAR JHA S/o Late Gopal Jha R/o village- Balia, Vikrampur,
P.S.- Sakri, District- Madhubani

... .. Petitioner/s

Versus

1. The State of Bihar
2. Ganpati Jha S/o Late Kusheshwar Jha R/o village- Gobindpur, P.S.-
Bahadurpur, District- Darbhanga

... .. Opposite Party/s

=====

Appearance :

For the Petitioner/s : Mr. Prakash Chandra Jha, Adv.

For the Opposite Party/s : Mr. Jitendra Kumar Singh, APP

=====

CORAM: HONOURABLE MR. JUSTICE SATYAVRAT VERMA
ORAL ORDER

3 09-01-2024 1. Heard learned counsel for the petitioner and learned
A.P.P. for the State.

2. The learned counsel for the petitioner submits that
in compliance of the order dated 12.09.2023 notices were filed
to be served on the O.P. No.2. It is next submitted that from
perusal of the office report dated 08.11.2023, it would manifest
that the same records that the notice has been received
personally by the O.P. No.2. The learned counsel next submits
that despite the O.P. No.2 receiving notice personally chooses
not to contest the case.

3. The learned counsel next submits that the present
quashing application has been filed seeking quashing of the



order dated 02.07.2018 passed in Complaint Case No.350/2018, T.R. No.3837/2018 by the learned A.C.J.M.-VIII, Darbhanga, whereby cognizance of offence under Sections 323 and 427 of the Indian Penal Code has been taken. The learned counsel next submits that the Complainant is a former Sarpanch and accused no.2, namely, Ajay Chaudhary is husband of the present Sarpanch and under the influence of the accused no.2, the accused no.1 i.e. the petitioner dismantled the house of the complainant. The learned counsel next submits that petitioner at the relevant time when the occurrence is alleged to have taken place was the Circle Officer and encroachment proceeding vide Case No.09/17-18 was going on against the complainant based on the complaint of Ajay Kumar Chaudhary, accused no.2, further in the said encroachment proceeding, after obtaining report of the revenue karmchari and Circle Inspector, it transpired that the complainant had constructed his house encroaching public land for which he was noticed, further the complainant himself turned up before the authorities and sought time that he would vacate the encroached land himself by 27.02.2018 (*Annexure-4*) to the quashing application. It is further submitted that a complaint was also lodged before the District Complaint Redressal Authority, in which on 08.02.2018



a notice was issued for removal of encroachment to the C.O., Bahadurpur, as such, the petitioner being the C.O. has removed the encroachment from public land in discharge of his official duty but came to be implicated at the instance of the O.P. No.2 by way of the instant complaint case which is nothing but an abuse of process of the Court. The learned counsel further submits that this perhaps explains why the O.P. No.2 despite receiving notice chooses not to contest the case.

4. The learned APP is not in a position to rebut the submissions of the learned counsel for the petitioner.

5. Considering the submissions made by the learned counsel for the petitioner, the order dated 02.07.2018 passed in Complaint Case No.350/2018, T.R. No.3837/2018 by the learned A.C.J.M.-VIII, Darbhanga, whereby cognizance of offence under Sections 323 and 427 of the Indian Penal Code has been taken is hereby quashed.

(Satyavrat Verma, J)

amit/-

U		T	
---	--	---	--

