IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Writ Jurisdiction Case No.318 of 2023

Arising Out of PS. Case No.-1012 Year-2019 Thana- MUZAFFARPUR TOWN District-Muzaffarpur

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DINESH THAKKAR Son of Shri Dariyanumal Thakkar R/o Raheja Classique Building, Andheri West, P.S.- Versova Mumbai 400053

... ... Petitioner/s

Versus

1. The State of Bihar through the Director General of Police, Bihar, Patna Bihar
2. RAMADHAR SINGH Son of Late Jageshwar Singh R/o Mohalla- Diwan Road, P.S.- Mithanpura, District- Muzaffarpur

... ... Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Mrigank Mauli Mr. Sanket
For the Respondent/s	:	Mr.M. Nasrul Huda Khan, SC-01

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CORAM: HONOURABLE MR. JUSTICE SANDEEP KUMAR
ORAL JUDGMENT
Date : 10-04-2025

Heard learned counsel for the petitioner and learned counsel for the State. None appears for the opposite party no. 02 despite valid service of notice.

2. This writ application has been filed for quashing the FIR registered as Muzaffarpur Town P.S. Case No. 1012 of 2019 registered for the offence under Sections 147, 148, 323, 324, 307, 420, 406, 379, 120(B)/34 of the Indian Penal Code registered under the direction of learned CJM, Muzaffarpur in Complaint Case No. 2203 of 2019 under Section 156(3) of the

Code of Criminal Procedure.

3. The petitioner is the founder and Chairman-cum-Managing Director of M/s. Angel One Limited which is one of the top retail broking public listed companies in India. The complainant had also previously filed a Complaint Case before the learned Judicial Magistrate, 1st Class, Muzaffarpur being Complaint Case No. 1588 of 2012 for the offence under Section 341 and Section 504 of the Indian Penal Code against the petitioner.

4. In the Complaint Case No. 1588 of 2012, the opposite party no. 2 had made an allegation against this petitioner and other co-accused that the Firm M/s Angel Broking Commodities Company deals in share market and it has its Branch Office at Kedarnath Road, Muzaffarpur, which is named as Appu Apoorva Finance Services. It is alleged that this petitioner and other accused were involved in duping the public by enticing them with an offer of earning huge profit and the complainant (also the complainant in the present case), on being enticed by the accused had deposited an amount of Rs. 72,500/- with the petitioner on 25.07.2010 for purchasing 1000 Kg. of copper at the rate of Rs. 350/- per Kg. and when the price of copper had gone up to Rs. 470 per Kg., the complainant had directed the accused to sell the same on 15.02.2011 and deposit the amount in his account but the accused after much dithering, deposited an amount of Rs.2,500/- only and rest amount has been swindled by the accused. It was also alleged in the previous complaint case that on the date of occurrence, all the accused with intention to erase all proof of cheating, confined the complainant and tried to force him to sign on the account closing form and on refusal of the same, the complainant was assaulted. The complainant also alleges that the petitioner snatched an amount of Rs. 1,000/- and also some important documents from him.

5. In course of enquiry, the complainant on solemn affirmation supported the case and the learned Magistrate, finding *prima facie* case, summoned all the accused to face trial. Thereafter, this petitioner preferred a quashing application before this Court against the Complaint Case No. 1588 of 2012 bearing Cr. Misc. No. 19422 of 2014 which has been allowed vide order dated 1.9.2017 and the cognizance order dated 8.5.2013 has been quashed. After quashing of the cognizance order and the complaint against the petitioner, other accused of the Complaint Case No. 1588 of 2012 were also acquitted vide order dated 12.03.2020 by the Court below in Trial Case No.

602 of 2020.

6. It has been submitted by the learned counsel for the petitioner that the Respondent No. 2, while the previous case was still pending, again filed a fresh Complaint before the learned Chief Judicial Magistrate, Muzaffarpur bearing Complaint Case No. 2203/2019 for taking cognizance under Sections 147, 148, 323, 324, 307, 420, 406, 379/ 34, 120(B) of Indian Penal Code and it has been alleged that on 10.07.2019 at about 8 am Nishant Chanchal, Soni Kumari, Jay Shankar Kumar, Sagrika Kumari, and Dinesh Thakkar (the petitioner) together abused the complainant and physically assaulted him. It has been further alleged by the complainant that the accused persons have also attempted to kill him and the complainant sustained injury in his hand. The complainant further alleges that the accused took Rs. 5,000/- from his pocket and the reason for assault is that he deposited an amount of Rs. 72,500/- with M/s Angel Broking Commodities Company at Kedhar Nath Road, Kalyani, Muzaffarpur with a trust and promised that Rs 1,92,500/- shall be deposited to complainant's Corporation Bank Account No. 01002170 but his money has been used in share market and that the complainant has received only Rs 2,500/-.

7. It has further been submitted by the learned counsel for the petitioner that the petitioner applied for the entire records of the Complaint Case No.2203/2019 and was supplied with copies of the complaint and the affidavit which is being brought on record which shows that the complaint has been filed on 02.08.2019 and does not carry any documents in support of the allegations and the same has been referred to the police by the learned CJM vide order dated 18.09.2019 for institution of FIR and accordingly the FIR bearing Muzaffarpur Town P.S. Case No. 1012 of 2019 was registered against the petitioner and other named accused persons.

8. It is further argued by the learned counsel for the petitioner that the present complaint is nothing but an abuse of the process of the Court and the complainant has induced the Court to admit the complaint based on disclosure of partial and misleading facts. The respondent no. 02 has annexed a forged document with the revised/amended complaint petition which is the part of the FIR to establish this false case. The respondent no. 02 has annexed copy of letter dated 10.10.2011 issued under the forged signature of the petitioner but the name of the petitioner has been written as Dinesh Thakur instead of Dinesh Thakkar and from the perusal of the document shows it is clear that the signature has been lifted/copied from a PDF file and has been pasted on the said letter and thus showing how the complainant has tried to misuse the process of law not only to mislead the court below but to make out a false case against the petitioner.

9. It has further been submitted by the learned counsel for the petitioner that the learned Magistrate, while directing for registration of FIR under Section 156(3) Cr.P.C., have not gone through the contents of the complaint petition and without applying his judicial mind, in a mechanical manner, has directed the police to institute an FIR against the petitioner.

10. Learned counsel for the petitioner further submits that the present complaint/FIR filed in the year 2019 alleges similar facts against the petitioner as were alleged in the Complaint Case No. 1588 of 2012. The Respondent No. 2 being aggrieved by the Decision of this Hon'ble Court's order dated 01.09.2017, quashing the cognizance order of 2012, had filed this present complaint before the learned CJM after 2 years, which is mischievous and an abuse of the process of law and the same has been filed with an intention to harass the petitioner.

11. Learned counsel for the petitioner further submits that the material facts, except for the alleged date of incident, in both the complainants are same and similar. The facts alleged against the petitioner are substantially the same facts and arises out of the same incident i.e. because of failure to pay for the transaction/investment in the Commodities market.

12. Learned counsel for the petitioner further submits that the petitioner, being the Managing Director of the company, on the date of incident, was attending various business engagements and professional meetings and was physically present in Kolkata and Mumbai where he permanently resides. The Angel Group of Companies are involved into the business of Equity Trading, trading in Commodities, Portfolio Management Services, Mutual Funds, distribution of Life Insurance products, IPOs, providing Depository and Investment Advisory services. Angel Commodities Broking Pvt. Ltd., (presently Angel One Limited, pursuant to amalgamation) is a member of the two leading Commodity Exchanges in the Country viz., MCX and NCDEX and a Member of the Bombay Stock Exchange (BSE), and the National Stock Exchange (NSE).

13. It has further been submitted by the learned counsel for the petitioner that the petitioner has his registered and corporate office at Mumbai and the petitioner does not have any connection with the day to day activities of the sub-brokers, who have their office at Muzaffarpur. The petitioner is a permanent resident of Maharashtra and the office and permanent residence of the petitioner is at Mumbai and the same has also been admitted by the complainant/Informant.

14. Learned counsel for the petitioner further submits that the company was approached by M/s Apoorva Financial Services, Muzaffarpur through its Sole Proprietor Sarika Kumari for appointment as Sub-broker and for provision of a terminal for trading on the MCX and NCDEX. Thereafter the company entered into a Memorandum of Understanding with M/s Apoorva Financial Services and allowed it to conduct retail broking operations. Based on the MOU between the Company and M/s Apoorva Financial Services, the Company permitted M/s Apoorva Financial Services to conduct retail trading business by providing a single terminal to M/s Apoorva Financial Services and M/s Apoorva Financial Services was registered with MCX and NCDEX as an authorized person to carry out retail trading under the Membership ID of the Company.

15. Learned counsel for the petitioner further submits that the MOU between the Company and M/s Apoorva Financial Services shows that M/s Apoorva Financial Services was to deal directly with the retail clients at its location and it was the responsibility of M/s Apoorva Financial Services to contain risk with regard to positions undertaken by the clients and it was open to it to fix such brokerage as it may desire subject to minimum prescribed by the Company and the Company was entitled to receive a percentage of the brokerage amount earned by M/s Apoorva Financial Services. It is also clear from the agreement that M/s Apoorva Financial Services was independent to handle the retail clients and it was in this course that M/s Apoorva Financial Services had brought in the complainant as one of the retail clients and by agreement dated 05.06.2010 the Complainant was inducted as the client of M/s Apoorva Financial Services and through it, a client of the Company.

16. It is further submitted by the learned counsel for the petitioner that there is no dispute between M/s Apoorva Financial Services and the Company with regard to any of the transactions undertaken by M/s Apoorva Financial Services through the terminal of the Company on the MCX or NCDEX and the very opening statement in the complaint petition is false and has mischievously been made to give an impression that M/s Angel Broking Commodities Company is a local Company of Muzaffarpur, Bihar and has an office in Muzaffarpur and the petitioner along with one Jai Shankar Kumar and Nishant Chanchal are the managing members of the said company.

17. It is further submitted by the learned counsel for the petitioner that it was M/s Apoorva Financial Services which has the office at Muzaffarpur and the Company does not have its office at Muzaffarpur and has no direct dealing with the complainant and it is M/s Apoorva Financial Services which dealt with the complainant and on behalf of the complainant traded on MCX and NCDEX and the Company was only responsible for the conduct of M/s Apoorva Financial Services on MCX and NCDEX.

18. It has further been submitted by the learned counsel for the petitioner that the complainant made the payment of Rs. 72,500/-over a period of time from 21.07.2010 to 15.02.2011, on six occasions. The complainant, in the meantime, also withdrew Rs. 3200/- from his account on 23.04.2011. The Complainant made the payments in the regular course of his business of buying and selling commodity futures in the MCX and the NCDEX exchanges and it is necessary to state here that futures market is a leveraged market that permits investors to trade for large values against relatively small investments, called margin, which is a small percentage of the value of the contract. The risk of loss is inherent in such transactions and the trades being leveraged on margin, the loss incurred, may even be more than the investment made. The possibility of profit from such trade is also, for the same reason, large compared to relatively small investment. The Complainant lost money in the commodities market and filed the Complaint petition, falsely implicating the petitioner in the alleged crime, to bring pressure on him and the company to make good the loss suffered by the complainant/informant.

14. It is further submitted by the learned counsel for the petitioner that the Commodities market in India is regulated by the Securities and Exchange Board of India (SEBI) which is established under the Securities and Exchange Board of India Act, 1992 to promote, control and regulate the securities market in India which includes commodities and to protect the interest of investors in securities. As mandated by SEBI, the commodities exchange operate an institutionalized alternative dispute resolution mechanism in the form of conciliation and arbitration procedures according to the provisions of the Arbitration and Conciliation Act, 1996 and the MCX and NCDEX, for this purpose, maintain a panel of qualified expert arbitrators to consider and decide disputes between trading members and their constituents. The complainant, therefore, is a party to an arbitration agreement by which the complainant is bound to refer all disputes and claims relating to any transactions on the commodities exchange for resolution through arbitration and he should have sought his remedy before the appropriate forum which is the arbitral tribunal if he thinks that the petitioner or the Company caused him unlawful loss. Instead, the complainant, with a view to extract the money he lost in the market, filed the complaint case on fabricated and malicious grounds.

15. It is further submitted by the learned counsel for the petitioner that trading in commodities futures entails risk of loss of investment and the complainant was aware of the various financial risks he was exposed to from the Risk Disclosure Document which he has signed at the time of entering into member client agreement with the company. Sustaining loss in commodities futures market is not unusual for traders as the market may, at times, move adverse to the investor's speculation and the complainant, by filing the complaint petition, is seeking to recover the loss he sustained from the company by bringing on the company and the petitioner the burden of a criminal case on false and fabricated grounds. The Complainant's relation is only with the Company which is contractual and civil in nature and if the Complainant had any difference or dispute with the Company pertaining to his contractual relation with the Company, efficacious and effective remedy is available to him under the regulations administered by the SEBI.

16. Learned counsel for the petitioner further submits that the petitioner had never interacted with the complainant or known the complainant personally and he never visited Muzaffarpur in his life time and the present dispute, which is purely civil in nature is given colour of criminal case and therefore the same may be quashed.

17. In support of his submissions, learned counsel for the petitioner has relied upon judgments of the Hon'ble Supreme Court passed in the following cases:-

Indian Oil Corporation Versus NEPC India Ltd. reported in (2006) 6 SCC 736.

Bhajanlal Vs. State of Haryana reported in 1992 Supp(1) SCC 335.

Priyanka Srivastava and Anr. Vs State of UP reported in (2015) 6 SCC 287.

18. Learned counsel for the State has opposed the application of the petitioner and has submitted that the present

FIR cannot be and should not be quashed at this stage.

19. I have considered the submission of the parties.

20. From the materials available on record, it appears that respondent-informant is harassing the petitioner and has filed the present case after quashing of Complaint Case No. 1588 of 2012 filed for the offence under Section 341 and 504 of the Indian Penal Code for the same dispute.

21. The Hon'ble Supreme Court in the case of ***Indian Oil Corporation Versus NEPC India Ltd. (Supra)*** has held as under:-

> *"It is necessary to take notice of a growing tendency in business Circles to convert purely Civil disputes into Criminal Cases. This is obviously on account of a prevalent impression that Civil law remedies are time consuming and do not adequately protects the interests of lenders/creditors Such a tendency is seen in several family disputes also, leading to irretrievable break down of marriages/families There is also an impression that if a person could somehow be entangled in a criminal prosecution, there is likelihood of imminent settlement. Any efforts to settle Civil disputes and Claim, which do not involve any Criminal offence, by applying pressure through Criminal prosecution should be deprecated and discouraged."*

22. The Hon'ble Supreme Court in the case of ***Bhajanlal Vs. State of Haryana(Supra) has held as under:-***

"where the allegation 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 to proceed against the accused" and (7) "where a criminal proceeding is manifestly attended with malafides 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"

23. The Hon'ble Supreme Court in the case of ***Priyanka Srivastava and Anr. Vs State of UP (Supra)*** has held as under:-

30. In our considered opinion, a stage has come in this country where Section 156(3) CrPC applications are to be supported by an affidavit duly sworn by the applicant who seeks the invocation of the jurisdiction of the Magistrate. That apart, in an appropriate case, the learned Magistrate would be well advised to verify the truth and also can verify the veracity of the allegations. This affidavit can make the applicant more responsible. We are compelled to say so as such kind of applications are being filed in a routine manner without taking any responsibility whatsoever only to harass certain persons. That apart, it becomes more disturbing and alarming when one tries to pick up people who are passing orders under a statutory provision which can be challenged under the framework of the said Act or under Article 226 of the Constitution of India. But it cannot be done to take undue advantage in a criminal court as if somebody is determined to settle the scores.

31. We have already indicated that there has to be prior applications under Sections 154(1) and 154(3) while filing a petition under Section 156(3). Both the aspects should be clearly spelt out in the application and necessary documents to that effect shall be filed. The warrant for giving a direction that an application under Section 156(3) be supported by an affidavit is so that the person making the application should be conscious and also endeavour to see that no false affidavit is made. It is because once an affidavit is found to be false, he will be liable for prosecution in accordance with law. This will deter him to casually invoke the authority of the Magistrate under Section 156(3). That apart, we have already stated that the veracity of the same can also be verified by the learned Magistrate, regard being had to the nature of allegations of the case. We are compelled to say so as a number of cases pertaining to fiscal sphere, matrimonial dispute/family disputes, commercial offences, medical negligence cases, corruption cases and the cases where there is abnormal delay/laches in initiating criminal prosecution, as are illustrated in Lalita Kumari [(2014) 2 SCC 1: (2014) 1 SCC (Cri) 524] are being filed. That apart, the learned Magistrate would also be aware of the delay in lodging of the FIR"

24. In view of the above, this *mala fide* prosecution arises out of commercial dispute and the same cannot be allowed to continue.

25. Moreover, for the same allegations, a complaint case was filed which has been quashed by this Court and therefore, the present application is allowed, accordingly, the FIR bearing Muzaffarpur Town P.S. Case No. 1012 of 2019 is hereby quashed.

26. This Court also imposes a cost of Rs. 50,000/- upon the respondent no. 02 which shall be deposited in the District Legal Services Authority (DLSA), Muzaffarpur within ten weeks from today.

(Sandeep Kumar, J)

Vikas/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	14.05.2025
Transmission Date	14.05.2025