

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.54170 of 2015

Arising Out of PS. Case No.-2891 Year-2012 Thana- PATNA COMPLAINT CASE District-
Patna

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1. Menka Mishra, W/o (Dr.) Anjani Kumar Mishra R/o Mohalla - Khajpura, Murlichak Baswaritar, P.S.- Hawai Adda, P.O.- Veterinary College, Town and Distt.- Patna
 2. Prabhanjan Kumar, S/o (Dr.) Anjani Kumar Mishra R/o Mohalla - Khajpura, Murlichak Baswaritar, P.S.- Hawai Adda, P.O.- Veterinary College, Town and Distt.- Patna
 3. Priyaranjan Kumar @ Niranjan Kumar, S/o (Dr.) Anjani Kumar Mishra R/o Mohalla- Khajpura, Murlichak Baswaritar, P.S.- Hawai Adda, P.O.- Veterinary College, Town and Distt.- Patna

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. Upendra Kumar Singh, Advocate Mr. Kanhaiya Kumar Singh, Advocate
For the State	:	Mr. Suresh Prasad Singh, APP

CORAM: HONOURABLE MR. JUSTICE SHAILENDRA SINGH
ORAL JUDGMENT

Date : 03-04-2025

Heard Mr. Upendra Kumar Singh, learned counsel for the petitioners and Mr. Suresh Prasad Singh, learned APP for the State.

2. The instant petition has been filed under Section 482 of the Code of Criminal Procedure, 1973 (in short 'Cr.P.C.') with a prayer to quash the order dated 13.05.2013 passed by the Court of learned Judicial Magistrate 1st Class, Patna in connection with Protest-cum-Complaint Case No. 2891(C)/2012 arising out of



Hawai Adda P.S. Case No. 171 of 2011 by which the learned Magistrate has taken cognizance of the offences under Sections 323 and 504 of the Indian Penal Code (in short 'IPC') against the petitioners.

3. Mr. Upendra Kumar Singh, learned counsel appearing for the petitioners submits that initially the complainant, Ram Vilash Singh, who is now no more, lodged Hawai Adda P.S. Case No. 171 of 2011 under Sections 341, 323, 379, 504 and 506 read with Section 34 of IPC in which the allegations levelled by the complainant/informant were investigated and finally the police concluded the allegations of the informant to be false and petitioners were not sent up and the prosecution for the offences under Sections 182/211 of IPC was recommended by the police against the informant. The alleged occurrence is said to have taken place on 19.09.2011 and as per the prosecution story, simply a scuffling was being taken place in between one Rahul Singh and the petitioners and late Anjani Kumar Mishra and as per the prosecution story, the informant intervened in that scuffling and while pacifying both the parties, he was pushed by the accused/petitioners into a drain and during that course, Rs. 5500/- was also taken out from the pocket of his trouser by the deceased accused, Anjani Kumar Mishra and wrist watch of the informant



was snatched by the petitioner no.1, Menka Mishra but the said allegations are completely unbelievable and absurd and as per the statement of C.W.-1, the informant was taken to hospital which shows that he received medical treatment but in this regard, no chit of paper showing his medical treatment was filed by the informant with his protest petition while in connection with the occurrence allegedly having taken place with the petitioners for which Hawai Adda P.S. Case No. 170 of 2011 was registered against the informant of the present matter and others, the police investigated and submitted chargesheet against the informant as well as others and owing to that reason with malafide intention, the informant, late Ram Vilash Singh, in collusion with said Rahul Singh with whom the petitioners had dispute and on the alleged day and time of the occurrence as per the FIR, a scuffling was being taken place in between them, was used by him in lodging the FIR against the petitioners. It is further submitted that in relation to the incident of *marpit* having taken place with the petitioners, sufficient medical evidence was given during the investigation in relation to the medical treatment of deceased petitioner, Anjani Kumar Mishra and petitioner no. 1, Menka Mishra and in this regard, Annexure-4 is relevant and these facts are sufficient to show the malafide intentions on the part of the informant, late Ram Vilash Singh, in



lodging the FIR as well as in filing the protest petition after the police submitted final form in favour of the petitioners.

4. On the other hand, Mr. Suresh Prasad Singh, learned APP appearing for the State has vehemently opposed the prayer of the petitioners and submits that the allegations made in the protest petition filed by late Ram Vilash Singh are sufficient to *prima facie* attract the alleged offences of which cognizance has been taken by the learned Magistrate as all the witnesses examined on the protest petition by the complainant, late Ram Vilash Singh, supported the allegation of *marpit* and abusing and the learned trial court has rightly taken the cognizance of the alleged offences.

5. Heard both the sides and perused the order impugned and relevant materials. This Court finds substance in the aforesaid grounds taken by the petitioners as the complainant failed to produce any kind of medical evidence to support the allegation of *marpit* which is said to have taken place with him on the alleged day and time of the occurrence, whereas as per the statement of C.W.-1, he was taken to hospital. Here it is important to mention that the complainant, Ram Vilash Singh, lodged his FIR by filing a written application dated 20.09.2011 while to lodge the FIR in the petitioners' case, a written application dated 19.09.2011 had been filed which shows that after knowing the legal action from the



petitioners’ side, late Ram Vilash Singh took step to lodge his FIR in this matter in collusion with one Rahul Singh as both belonged to the same village and were also made accused in petitioners’ case. These materials are sufficient to show the malicious intention on the part of late Ram Vilash Singh in lodging the FIR as well as in filing the protest petition and further, the allegations levelled by him appear to be absurd and not believable and this Court is of the view that subjecting the petitioners to trial for the alleged offences, would be complete harassment to them and also an abuse of the process of court, therefore, the order impugned taking cognizance of the alleged offences, is hereby quashed and the instant Criminal Miscellaneous Petition stands allowed.

(Shailendra Singh, J)

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