

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.2930 of 2020

Arising Out of PS. Case No.-173 Year-2010 Thana- BANKA District- Banka

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Prahalad Kumar Bhagat Son of Sri Jagdish Prasad Bhagat R/o Village and
P.S.- Amarpur, Distt- Banka.

... .. Petitioner

Versus

The State of Bihar

... .. Opposite Party

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Appearance :

For the Petitioner	:	Mr. P.N. Shahi, Sr. Advocate Mr. Prahalad Kumar Bhagat (in Person)
For the State	:	Mr. Navin Kumar Pandey, APP

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CORAM: HONOURABLE MR. JUSTICE SANDEEP KUMAR
ORAL JUDGMENT
Date : 10-07-2025

Heard learned Senior Counsel for the petitioner and
learned APP for the State.

2. In this case, the petitioner has challenged the
order dated 16.11.2019 passed by the learned A.D.J., Banka, in
Banka P.S. Case No.173 of 2020, by which the learned Judge
has dismissed the discharge petition dated 18.03.2017 filed by
the petitioner.

3. As per the F.I.R. on 15.05.2010 while the
informant-Harshavardhan Das, the then Assistant in the office of
the S.D.O., Banka, was coming to his office from the chambers
of the S.D.O., the petitioner and one Ranjan Kumar Bhagat
hurled caste based abuses on him for not carrying out their work
and thereafter the petitioner told him that since he is the



standing counsel, the S.D.O. or the C.J.M. will not harm him in any manner.

4. Based on the aforesaid written report, Banka P.S. Case No.173 of 2010 was registered under sections 353, 504, 506/34 of the Indian Penal Code and under section 3(x) of the S.C./S.T. Act. against the petitioner and one Ranjan Kumar Bhagat.

5. It has been submitted by learned Senior Counsel for the petitioner that the petitioner is innocent and has falsely been implicated in this case. The F.I.R. has been lodged by the informant out of malice and *malafide* intention to harass/demoralize the petitioner and destroy the goodwill also. He has further submitted that the petitioner is a practicing advocate of this Court and he resides at Patna.

6. It has also been submitted by learned Senior Counsel for the petitioner that the genesis of the case is that Ranjan Kumar alias Ranjan Kumar Bhagat (co-accused) is the client of the petitioner and has made a written complaint before the C.J.M., Banka against the informant stating therein that the informant is involved in corruption as he is demanding money for providing him certain information relating to a proceeding under section 107 Cr.P.C. and has made request to the learned



C.J.M. Banka, to take action against the informant. Since the co-accused pursued the aforesaid complaint against the informant before multiple authorities, the District Magistrate, Banka entrusted the enquiry to the Additional Collector, Banka and thereafter the co-accused received a notice from the office of the D.C.L.R. asking him to appear on 22.01.2010 to submit his stand. Subsequently, the statements of the petitioner, co-accused and the informant were recorded. Thereafter, the present F.I.R. has been lodged by the informant in retaliation to the complaint lodged by the co-accused, who is the client of the petitioner as informant was aware of the fact that the allegation of demand of money in the shape of bribe against him would be found proved during the enquiry conducted against him before the Additional Collector, Banka.

7. It is submitted by learned Senior Counsel for the petitioner that the copy of the order-sheet and proceedings was not provided to this petitioner by the concerned authorities despite filing requisition for the same.

8. It has also been argued that after coming to know about institution of instant F.I.R. the petitioner filed a representation before the Director General of Police, Bihar as also before the DIG, Bhagalpur Range, Bhagalpur, whereupon



DIG, Bhagalpur Range, Bhagalpur gave direction to the S.D.P.O., Banka to direct the Investigating Officer of the case to conduct the investigation considering the contentions of the petitioner, which is evident from official communication made by the S.D.P.O. to District Magistrate, Banka.

9. It has also been argued by learned Senior Counsel for the petitioner that during the course of investigation ample materials have come showing the innocence of the present petitioner, which is evident from paragraph nos. 17, 29, 30 and 64 of the case diary.

10. Lastly, it has been argued by learned Senior Counsel for the petitioner that the co-accused Ranjan Kumar Bhagat has been acquitted by learned 1st Additional Sessions Judge, Banka, in General Register No.703 of 2010, arising out of Banka P.S. Case No.173 of 2010 vide judgment and order dated 06.02.2020.

11. Learned APP for the State has supported the impugned order by which the discharge petition filed by the petitioner has been dismissed by the learned Additional District Judge and has submitted that earlier the petitioner had moved before this Court by way of filing Criminal Miscellaneous No.13881 of 2016 challenging the order taking cognizance on



the ground of *malafide* since the petitioner had lodged a complaint against the informant whereupon, administrative action has been taken against him, which is the cause of filing the present F.I.R. However, a coordinate Bench of this Court vide order dated 02.08.2016 dismissed the said petition.

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

13. From the records, it appears that Ranjan Kumar Bhagat, who is the client of this petitioner, had lodged a complaint against the informant, who was working as Assistant in the office of the S.D.O. Banka much prior to lodging the present F.I.R. In the said complaint, the aforesaid Ranjan Kumar Bhagat had alleged that the informant is involved in corruption. Based on the aforesaid complaint, enquiry was initiated against the informant and even statements of all the parties were recorded. The present F.I.R. has been lodged by the informant much after the complaint lodged by said Ranjan Kumar Bhagat against the informant. The present F.I.R. is nothing but a retaliation to the complaint lodged by said Ranjan Kumar Bhagat.

14. Considering the aforesaid facts, I am of the view that the present F.I.R. has been lodged by the informant



only with a view to wreak vengeance on the petitioner and his client merely because they had lodged a complaint against the informant and on the basis of the said complaint an enquiry was initiated against the informant.

15. Further, from the records it appears that the co-accused Ranjan Kumar Bhagat, who had lodged the complaint against the informant, had faced the trial and was ultimately acquitted of all the charges levelled against him vide judgment and order dated 06.02.2020 passed in General Register No.703 of 2010, arising out of Banka P.S. Case No.173 of 2010.

16. From the reading of the F.I.R. it is apparent that the allegations against petitioner and said Ranjan Kumar Bhagat are similar.

17. Considering the aforesaid facts and also the law laid down by the Hon'ble Supreme Court in the case of *State of Haryana vs. Bhajan Lal* reported as [(1992) Supp (1) SCC 335], I am of the view that the *malafide* prosecution against the petitioner cannot continue since it would amount to abuse of the process of the Court.

18. Accordingly, this application is allowed. The F.I.R. vide Banka P.S. Case No.173 of 2020 and all



consequential proceedings arising out of the aforesaid F.I.R.
including the order dated 16.11.2019 are hereby quashed.

(Sandeep Kumar, J)

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AFR/NAFR	N.A.F.R.
CAV DATE	N/A
Uploading Date	16.07.2025
Transmission Date	16.07.2025

