

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.13116 of 2019

Arising Out of PS. Case No.-1319 Year-2014 Thana- GAYA COMPLAINT CASE District-
Gaya

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1. Tarkeshwar Singh S/O Late Sudama Singh Resident Of Mohalla Chand Choura, Police Station Bishunpad, District- Gaya
 2. Abhishek Kumar @ Bittu S/O Tarkeshwar Singh Resident Of Mohalla Chand Choura Police Station Bishunpad, District-Gaya
 3. Prabha Devi W/o Tarkeshwar Singh Resident Of Mohalla Chand Choura Police Station Bishunpad, District-Gaya
 4. Akash Kumar @ Bithal S/O Tarkeshwar Singh Resident Of Mohalla Chand Choura Police Station Bishunpad, District-Gaya

... .. Petitioner/s

Versus

1. The State Of Bihar
2. Rajesh Kumar Tarkeshwar Singh Resident Of Mohalla Chand Choura Police Station Bishunpad District-Gaya

... .. Opposite Party/s

Appearance :

For the Petitioner/s :	Mr. Pramod Kumar, Advocate
For the Opposite Party/s :	Mr. Nitya Nand Tiwary, APP
	Mr. Mrigendra Kumar, Advocate
	Mr. Ramashish, Advocate

CORAM: HONOURABLE MR. JUSTICE SANDEEP KUMAR
ORAL ORDER

4 20-01-2026 Heard the learned counsel for the petitioners, the

learned counsel for the State and the learned counsel for the O.P.

No. 2.

2. This application has been filed for quashing of the
cognizance dated 23.05.2018 passed by the learned Chief
Judicial Magistrate, Gaya in Complaint Case No. 1319 of 2014
by which cognizance was taken under sections 323 341, 504 and
379 of the Indian Penal Code against the petitioners on the basis



of the complaint petition filed by the complainant namely Rajesh Kumar.

3. The prosecution case, in brief, is that the complainant, a Tempo driver, has purchased a Tempo on loan under the Prime Minister Rural Self-Employment Scheme. He earns his livelihood and supports his family by operating the Tempo. The complainant alleges that on 26.07.2014, at around 7:30 in the morning, he received a call from his wife. She was crying and weeping, informing him that all the accused persons were beating her and falsely accusing her of having poured poison into the water. Upon hearing this, the complainant rushed home, where he found all the accused persons assaulting his wife. When the complainant tried to intervene and save his wife, the accused persons, leaving her behind, caught hold of him and pushed him to the ground. When the complainant fell down on the ground, the petitioner nos. 2 and 4 assaulted him with a lathi near the eye. The complainant managed to protect his eye, and at that moment, petitioner no. 1 snatched the gold *Jitia* from the complainant's wife, while petitioner no. 3 took Rs. 259 from the complainant. The complainant sustained severe injuries. It is further alleged that, after the incident, he went to the Civil Lines Police Station, from where he was sent to Pilgrim Hospital.



However, due to the seriousness of his injuries, the complainant was referred to Magadh Medical College Hospital, where he was admitted and remained from 26.07.2014 to 01.08.2014. The complainant further alleges that on 02.08.2014, he gave a written complaint at the Civil Lines Police Station, where the Station House Officer visited the complainant's residence for an inquiry but did not take any action. On 03.08.2014, at around 6:30 in the evening, all the accused persons suddenly arrived at the complainant's residence and assaulted him, stating that the police would not take any action against them. The complainant later filed a complaint before the Court of the Chief Judicial Magistrate, Gaya.

4. The learned counsel for the petitioners submits that after registration of the Complaint Case No. 1319 of 2014, the complainant was examined on S.A. and the witnesses were examined. He further submits that the petitioner no.1 is the father of the complainant, petitioner no. 3 is the mother and petitioner no.2 and 4 are the brothers of the complainant. The complainant is a man of criminal bent of mind and has four criminal cases pending in the Court. The petitioner no.1 is an old man retired from the Government services and is bearing the educational expenses of both his sons who are studying in



Delhi.

5. It is further submitted that the complainant is an unemployed individual who is unable to support his family and is known to be an alcoholic. On occasions when he is unable to procure alcohol, he causes disturbances within the household. The petitioners are deeply aggrieved by the complainant's disruptive and rude behavior. On 26.07.2014, the complainant demanded money from petitioner no. 1 to purchase alcohol, which was denied and in response to this, the complainant slapped petitioner no. 1, his father, which was objected by his wife. The complainant further slapped the wife of the petitioner no. 1, and this incident was subsequently reported to petitioners no. 2 and 4 by petitioner no. 3. At that time, petitioners no. 2 and 4 were at their college in Delhi. After coming to know about the situation, they advised their mother to lodge an FIR against the complainant. The complainant, in retaliation, has filed the present complaint with a *mala-fide* intention to intimidate the petitioners.

6. The learned counsel for the petitioners has further submitted that the present complaint has been maliciously filed against the petitioners with an intention to intimidate them.

7. The learned counsel for the petitioners has relied



upon a judgment of the Hon'ble Supreme Court passed in the case of *State of Haryana & Ors v. Bhajan Lal & Ors, 1992 Supp (1) SCC 335* and has submitted that the present prosecution is a mala-fide one and the same is nothing but an abuse of the process of the court.

8. Per-contra, the learned APP for the State and the learned counsel for the O.P. No. 2 opposed the application of the petitioners.

9. The Hon'ble Supreme Court in the case of *Bhajan Lal (Supra)* has held that *mala-fide* prosecution should not be allowed to continue.

10. On careful examination of the materials available on record, this Court finds that the allegations against the petitioners are mala-fide and the complaint has been filed by the complainant against his parents and his brothers to wreck vengeance.

11. Considering the aforesaid facts and circumstances of the case and the law laid down by the Hon'ble Supreme Court in the case of *Bhajan Lal (supra)*, the application stands allowed.

12. Accordingly, the cognizance dated 23.05.2018 passed by the learned Chief Judicial Magistrate Gaya in



Complaint Case No. 1319 of 2014 and all the consequential proceedings arising out of the aforesaid complaint case are hereby quashed.

13. Pending application(s), if any, shall also stand disposed of.

Shishir/-

(Sandeep Kumar, J)

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