

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.8290 of 2022

Arising Out of PS. Case No.-1330 Year-2017 Thana- GAYA COMPLAINT CASE District-
Gaya

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1. BRIJ NANDAN SINGH Son of Late Brahmdeo Singh Resident of Village - Durgawari, P.s.- Civil line, Distt.- Gaya.
 2. MANOJ SINGH Son of Brij Nandan Singh Resident of Village - Durgawari, P.s.- Civil line, Distt.- Gaya.

... .. Petitioner/s

Versus

1. The State of Bihar
2. MAHENDRA KUMAR SINGH Son of Sakaldeep Singh Resident of Village - Shayam Talkies Campus, P.S.- Muffasil, Distt.- Gaya.

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Harsh Singh, Advocate
Mr. Abhijit, Advocate
For the Opposite Party/s : Mr.Ram Sumiran Rai

CORAM: HONOURABLE MR. JUSTICE ANSUL
ORAL ORDER

7 16-03-2026 Heard the parties.

2. This application is being filed against the order dated 25.03.2019 passed in Complaint Case No.1330 of 2017 by the learned Court of Judicial Magistrate, Ist Class, Gaya whereby the learned Court below has been pleased to take cognizance of the offences punishable under Sections 323 and 504 of the Indian Penal Code against the petitioners.

3. That the prosecution story in brief as set out in the complaint petition inter alia is that the complainant Mahendra Kumar Singh S/o Late Sakaldeep Singh, r/o Mohalla- Shayam Talkies Campus, P.S. Muffasil, District- Gaya has filed a



Complaint against 1. Chandra Shekhar Singh, 2. Brijnandan Singh, 3. Manoj Singh, for the offences U/s 323, 341, 448, 427, 380/ 34 of the Indian Penal Code and 27 of the Arms Act, stating therein that the complainant is law abiding citizen and residing with family in the campus of Shayam Talkies under P.S. Muffasil, District-Gaya. The complainant's father were 6 brothers namely 1. Late Sakaldeep Singh 2. Late Pradeep Singh 3. Late Chandreshwar Singh 4. Jagdeep Singh 5. Brij Nandan Singh 6. Late Shalok Singh sons of Late Brahmdeo Singh. The complainant's father Late Sakaldeep Singh had joint property at village- Dema Fatehpur, P.S. Khijarsarai, District- Gaya as well as so many places in Gaya town and all the properties had been partitioned by the learned Civil Court, Gaya vide Partition Suit No. 43/2016. The complainant and his brothers namely Nagendra Singh and Amrendra Singh, Arun and heirs of Jagdip Singh had peaceful possession over properties. The complainant and his both brothers and heirs of Jagdeep Singh had also got some piece of land in partition at village Mastpura, P.S.-Bodh Gaya, District-Gaya and had constructed a house over the land and peacefully residing therein and care taker namely Bhim Bahadur of Nepal has been deputed for taking care of that land. It has been further alleged that the accused No.2 has been trying to disturb peaceful possession of



the complainant and for this, the accused No.2, first time on 20.03.2016 had filed a false case in Bodh Gaya Police Station being Bodh Gaya P.S. Case No.95/2016 and had implicated the complainant and his family members in addition to Jagdeep Singh and his sons and grand sons. Again on 08.12.2016, the Manager of Brij Nandan Auto Mobile Pvt. Ltd. namely Babalu Kumar s/o Ajay Kumar Singh r/o Village Jamdi, P.S.- Cherki, District-Gaya had lodged Bodh Gaya P.S. Case No.512/16 in which beside the complainant's family members Jagdeep Singh and his heirs were made accused. On 28.07.2017 the said Manager again lodged Bodh Gaya P.S. Case No.458/2017 against the Complaint and his heirs and Bhim Bahadur Singh.

4. It has been further alleged that accused No.2 is a rich person and his intention was to dispossess the complainant and his brother from the land of Mastpura and for this the accused no.2 under conspiracy has been lodging false cases or caused false cases to be lodged. The case lodged by the accused No.2 being Case No.95/2016 in which the allegation was of stealing of Motor Parts amounting of rupees 5 lacs,. till date police did not recover any articles and also in case, which was lodged by the Manager of the accused No. 2, accusation of stealing of Motor Parts amounting of rupees 5-10 lacs was made but police did not



recover any Motor Parts or money. The earlier criminality of the accused No.2 and 3 has been proved by the son of the accused No.2, Abhimanyu Singh, who has lodged Gandhi Maidan P.S. Case No.85/2015 and same has been found true and C/S has been submitted against the accused No.2 and 3 for the offences U/s 419, 420, 467, 468, 469, 471, 120(B).

5. It has further been alleged that the accused No.2 sometime disclosed himself as Manager of Marikraj Motors Pvt. Ltd. and sometime as Manager of Brijanand Auto Mobile Pvt. Ltd. and in connivance with Bodh Gaya Police, and under instruction of accused No. 2 and 3 used to lodge false cases. On 19.08.2017, when the complainant and his nephew Rohit Kumar Singh @ Tuntun were at the land of Mastpura and were talking with Bhim Bahadur (Guard) at that time accused No.2 alongwith accused No. 1 and 3 and 5-7 other came and started abusing. When the complainant's nephew Rohit Kumar @ Tuntun protested, then the accused no.2 ordered to kill Mahendra (Complainant). The accused No.1 put the complainant at ground and started pressing his neck and anyhow complainant's nephew rescue him.

6. The complainant to substantiate the allegation has been examined under section 200 code of Criminal Procedure on 18.07.2018, stating therein that he has lodged case against



Chandra Shekhar, Brij Nandan Singh and Manoj Singh for the occurrence of 19.08.2017 happened at Mastpura at 10.00 A.M. The complainant under solemn affirmation had stated that the land of Mastpura area belongs to him and all the accused used to abuse him. Brijnandan Singh, is uncle of the complainant and on his instance Chandra Shekhar Singh have lodged 3-4 cases. The complainant under solemn affirmation has further stated that the said land of Mastpura was given to him in partition but possession has been stopped by his uncle and the accused persons always used to disturb him.

7. A bare perusal of para 3 of the complaint which shows that the partition suit was filed by the parties or their ancestor being partition suit No.43 of 1976 and the case essentially is in connection with this land dispute only which has been given the criminal colour.

8. In the case of **Indian Oil Corpn. v. NEPC India Ltd., (2006) 6 SCC 736 : (2006) 3 SCC (Cri) 188 : 2006 SCC OnLine SC 747 at page 748**, it has been held that while on this issue, 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



protect the interests of lenders/creditors. Such a tendency is seen in several family disputes also, leading to irretrievable breakdown of marriages/families. There is also an impression that if a person could somehow be entangled in a criminal prosecution, there is a likelihood of imminent settlement. Any effort to settle civil disputes and claims, which do not involve any criminal offence, by applying pressure through criminal prosecution should be deprecated and discouraged.

9. In the case of **G. Sagar Suri v. State of U.P., (2000) 2 SCC 636 : 2000 SCC (Cri) 513 : (2000) 100 COMP CAS 613 : 2000 SCC OnLine SC 279 at page 643**, it has been held that Jurisdiction under Section 482 of the Code has to be exercised with great care. In exercise of its jurisdiction the High Court is not to examine the matter superficially. It is to be seen if a matter, which is essentially of a civil nature, has been given a cloak of criminal offence. Criminal proceedings are not a short cut of other remedies available in law. Before issuing process a criminal court has to exercise a great deal of caution. For the accused it is a serious matter. This Court has laid certain principles on the basis of which the High Court is to exercise its jurisdiction under Section 482 of the Code. Jurisdiction under this section has to be exercised to prevent abuse of the process of any court or otherwise



to secure the ends of justice.

10. In view of the above legal settled principle of law, this petition is allowed and the order dated 25.03.2019 passed in Complaint Case No.1330 of 2017 by Judicial Magistrate, Ist Class, Gaya is quashed.

(Ansul, J)

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