IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.22225 of 2017

CNR No. BRHC010162752017

Arising Out of PS. Case No.-1521 Year-2016 Thana- WEST CHAMPARAN COMPLAINT District- West Champaran

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1. Anil Kumar son of Late Anant Deo Narain Prasad, resident of Village New Bus Stand, Bettiah, Police Station- Bettiah Town, District- West Champaran.
2. Sanjay Kumar, son of Shri Krishna Prasad, resident of Village- Bal Krishna Colony, Police Station- Bettiah Muffasil, District- West Champaran.

... ... Petitioner/s

Versus

1. State Of Bihar
2. Dipendra Kumar Verma, son of Shri Arun Kumar Prasad, resident of Village- Dhankutwa, Police Station- Balthar, District- West Champaran.

... ... Opposite Party/s

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Appearance :
For the Petitioner/s : Mr. Sanjay Kumar, Advocate
For the Opposite Party/s : Mr. Ajay Kumar Jha, APP
For the O.P. No.2 : Mr. Sanjeev Kumar, Advocate

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CORAM: HONOURABLE MR. JUSTICE PRAVEEN KUMAR
ORAL JUDGMENT
Date : 29-10-2026

Heard learned counsel for the petitioners and learned counsel for the State as well as learned counsel for the Opposite Party No.2.

2. This application has been filed for quashing of the order dated 28.03.2017, passed by learned Additional Chief Judicial Magistrate- 6th, Bettiah, West Champaran, in connection with Complaint Case No. 1521 of 2016, whereby and whereunder cognizance has been taken for the offences punishable under Sections 323, 342, 379 and 504 of the Indian Penal Code.

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3. As per the prosecution case, the complainant used to work in a cement company for the intervening period between 2013 to 2015, when he was engaged for a monthly remuneration of Rs. 4500/-. It has been alleged that the petitioners used to give only Rs. 1500/- as monthly wage and used to retain Rs. 3000/- per month. The total dues amount exceeded up to Rs. 90,000/-, when the complainant requested the petitioners to pay the dues amount, the petitioners in turn adopted a evasive attitude, and the complainant was abused and assaulted by the petitioners. It has further been alleged that a threat was given by the petitioners after putting a pistol on the forehead of the complainant stating that, if the informant come next time, he will be killed, upon query by the court, the complainant stated that there was no documentary proof of the money which he received from the petitioners.

4. Learned counsel for the petitioners has submitted that the petitioners have been falsely implicated in this case. It has further been submitted that the complainant was an employee of the petitioners and petitioner No.1, prior to the lodging of the present case, had instituted Town P.S. Case No. 556 of 2015, registered for the offences under Sections 406, 420, 467, 468 and 471, against the complainant, alleging that the complainant has fraudulently sold about 500 bags of cement when the petitioners

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were ill. It has further been submitted that from bare perusal of the allegations as levelled in the complaint petition, no criminal offence is made out, even presuming that what has been alleged is true without admitting the remedy of the complainant was to file a case before an appropriate forum in accordance with law seeking his arrears of salary, and resorting to criminal case, it only reflects that the complainant was trying to coerce the petitioners into submission to compromise the Town P.S. Case No. 556 of 2015, lodged against the complainant. It has further been submitted, referring to one of the annexures as annexed with the supplementary affidavit, that the complainant had already approached the concerned authority by filing an application before the learned Assistant Labour Commissioner for payment of his dues amount on 31.08.2015 and the present case came to be filed on 30.08.2016. It has further been submitted that a civil dispute has been given the colour of a criminal cloak. It has further been submitted referring to the reply given by the complainant upon the Court’s query in the solemn affirmation, that there was no documentary proof of payment between the parties. It has further been submitted that the present prosecution against the petitioners is malicious in nature and has been filed with an intention to wreak vengeance.

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4.1. Learned counsel for the petitioners has further relied upon the judgment of the Hon'ble Supreme Court in the case of **State of Haryana Vs. Bhajanlal**; reported in **1992 Supp (1) SCC 335**, and has submitted that the case of the petitioners falls under various categories as discussed in paragraph-102 of the said judgment.

4.2. Learned counsel for the petitioners has also relied upon a judgment of the Hon'ble Supreme Court in the case of **Pepsi Foods Ltd. And Another Vs. Special Judicial Magistrate And Others**, reported in **(1998) 5 Supreme Court Cases 749**, and has submitted that the summoning order should not be a mechanical one and the learned Magistrate must apply his judicial mind so as to come to a finding that a *prima facie* case is made out, and a mechanical summoning order as in the present case without application of judicial mind should be quashed.

5. Learned counsel for the State as well as learned counsel for the Opposite Party No.2 has vehemently opposed the prayer of the petitioners. Learned counsel for Opposite Party No.2 has further submitted that the intention of the petitioners was to cheat the complainant from the very initial and the case against him was filed only as a retaliatory counter-blast, and the order taking cognizance is good in law and facts both.

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6. Heard the parties and perused the record.

7. Prior to the lodging of the present case, petitioner No.1 had earlier lodged a case against the complainant/Opposite Party No.2 under Sections 406, 420, 467, 468 and 471 of the I.P.C. on 23.08.2015, after lodging of the present case the complainant filed an application on 31.08.2015, before the learned Assistant Labour Commissioner and Employment Department, Bettiah, for payment of his dues amount and, after one year, the present case came to be lodged on 31.08.2016. The present prosecution appears to be a malicious one and in view of the judgments as discussed above, and in the facts and circumstances, the impugned order dated 28.03.2017, passed by learned Additional Chief Judicial Magistrate- 6th, Bettiah, West Champaran, in connection with Complaint Case No. 1521 of 2016, is hereby quashed.

8. Accordingly, the application stands allowed.

(Praveen Kumar, J)

Abdus/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	02.11.2026
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