

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.29010 of 2015

Arising Out of PS. Case No.-255 Year-2012 Thana- COMPLAINT CASE District- Supaul

1. Bikko Khan son of Late Chhitan Khan
2. Lal Mohammad Khan, son of Late Wahid Khan,
3. Phoolo Khan @ Phool Mohammad Khan, son of Late Wahid Khan,
4. Irshad Khan @ Md. Irshad Khan, son of Moti Khan,
5. Niharul Khan @ Neharul Khan, son of Massi Khan,
6. Insharul Khan @ Ansarul Khan, son of Massi Khan,
7. Irfan Khan, son of Md. Gulab Khan
8. Md. Chhedi Khan, son of Md. Lalo Khan, All residents of village- Thadhi Bhawanipur, P.S.- Pipra, District- Supaul

... .. Petitioner/s

Versus

1. State Of Bihar
2. Arshida Khanam, wife of Bikko Khan, resident of village- Thadhi Bhawanipur, P.S.- Pipra, District- Supaul

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. Syed Masleh-Uddin Ashraf, Sr. Advocate Mrs. Hema Yunus, Advocate Mr. Shehan Asharf, Advocate
For the Opposite Party/s :		Mr. J. Upadhyay App

CORAM: HONOURABLE MR. JUSTICE SANDEEP KUMAR
ORAL ORDER

7 06-01-2026 Heard the learned senior counsel for the petitioners
and the learned counsel for the State.

2. This application has been filed for quashing of the order dated 07.07.2014 passed in Complaint Case No. 255C of 2012 by the Judicial Magistrate, 1st Class, Supaul by which cognizance for the offences punishable under Sections 323, 379, 343/34 of the Indian Penal Code was taken and further



directions were issued for issuance of summons to the petitioners.

3. The prosecution case, in brief, is that the complainant, Arshida Khanam (OP No. 2) filed the instant complaint case before the learned Chief Judicial Magistrate, Supaul against all the petitioners on 31.03.12 alleging therein inter alia that her husband, Bikko Khan (petitioner No. 1), had taken Rs. 30,000/, which was received by the complainant for construction of house under Indira Awas Yojna. Other accused persons also hatched conspiracy in the alleged offence and on 23.03.12, she was assaulted by the accused persons after taking her jewelry, cash and mobile phone and finally she fled away from her sasural on 29.03.12.

4. Learned counsel for the petitioners submits that the complaint does not disclose the commission of any cognizable offence against the petitioners. It is further submitted that the allegations are vague, omnibus and arise out of a purely personal and civil dispute, which has been given a colour of criminal prosecution only to harass the petitioners. This kind of mala-fide prosecution is nothing but an abuse of the process of the court. The petitioner no. 1 is the husband of the complainant and the other petitioners are the family members of the



petitioner no. 1. The present case is nothing but a mala-fide prosecution actuated by malice as the same is a counter blast of Pipra P.S. Case No. 32 of 2012.

5. Learned counsel for the State, on the other hand, opposes the application and submits that the learned Magistrate has rightly taken cognizance on the basis of the complaint.

6. I have heard and considered the rival submissions and perused the materials available on record.

7. The Hon'ble Supreme Court in the case of *State of Haryana & Ors. Versus Bhajan Lal & Ors.*, reported in *AIR 1992 SC 604: 1992 Supp (1) SCC 335* has held that mala fide prosecution cannot be allowed to continue.

8. On careful examination of the materials available on record, this Court finds that the allegations against the petitioners are general in nature and do not disclose the essential ingredients of the offences alleged. There is no specific material to show wrongful confinement or theft nor are there specific overt acts attributed to the petitioners to make out an offence as alleged. The dispute appears to be purely of a civil nature which has been given the colour of a criminal case only to wreck vengeance upon the petitioners.

6. Considering the law laid down by the Hon'ble



Supreme Court in the case of *Bhajan Lal (supra)*, the order dated 07.07.2014 passed in Complaint Case No. 255C of 2012 by the Judicial Magistrate, 1st Class, Supaul and all the consequential proceedings arising out of Complaint Case No. 255C of 2012 are hereby quashed.

7. In view of the above, the application stands allowed.

(Sandeep Kumar, J)

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