IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.38643 of 2016

Arising Out of P.S. Case No.-3211, Year-2015, Thana- BEGUSARAI COMPLAINT CASE, District- Begusarai

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1. MD. AFRAD ALI @ MD. AFRAD @ MD. AMZAD ALI @ S.K AFRAD ALI and ORS Son of Late Nazir Ali
2. Md. Afsar Ali @ Mohammad Afsar Son of Md. Afrad Ali @ Md. Afrad @ Md. Amzad Ali @ S.K. Afrad Ali
3. Md. Esrar Ali Son of Md. Afrad Ali @ Md. Afrad @ Md. Amzad Ali @ S.K. Afrad Ali
4. Md. Shahnawaz Ali Son of Md. Afrad Ali @ Md. Afrad @ Md. Amzad Ali @ S.K. Afrad Ali All residents of Village- Chintamanpur, Police Station- Malahi, District- East Champaran Motihari.

... ... Petitioner/s

Versus

1. State Of Bihar and Anr
2. Shanawaj Ahmad Son of Md. Aizaz Ahmad Resident of Village- Lakhminiyan, Police Station- Balia, District- Begusarai.

... ... Opposite Party/s

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Appearance :

For the Petitioner/s	:	Mr. Prafull Chandra Jha, Advocate
		Mr. Keshav Kumar Jha, Advocate
		Mr. Rahul Kumar, Advocate
For the Opposite Party/s	:	Mr. Sri Ram Sumiran Roy, APP

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CORAM: HONOURABLE MR. JUSTICE SOURENDRA PANDEY

ORAL ORDER

9 17-07-2026 Heard the learned counsel for the petitioners and the learned APP for the State.

2. None appears on behalf of the opposite party no. 2, despite the fact that not only *vakalatnama* but counter affidavit has also been filed on behalf of the opposite party no. 2.

3. The present application has been filed by the petitioners invoking the inherent jurisdiction of this Hon'ble Court for quashing the order dated 25.02.2016 passed by the learned Sub-Judge-cum-A.C.J.M.-IV, Begusarai, in Complaint

Case No. 3211C of 2015 (T.R. No. 969 of 2015) by which cognizance for the offence under Sections 323, 420, 471 and 504 of the Indian Penal Code has been taken against the petitioners.

4. The prosecution case, in brief, is that on 07.11.2015, the complainant instituted a complaint before the Court of the learned Chief Judicial Magistrate, Begusarai, alleging that accused nos. 1 to 3 were operating a firm under the name Highness Development Job at Motihari, Bihar, and were fraudulently inducing unemployed persons to secure overseas employment by collecting substantial amounts of money. It is further the case of the complainant that the accused persons persuaded the complainant's elder brother, Md. Ayaz, to accept employment in Saudi Arabia as an Argon Welder on the assurance of a monthly salary of 4,000 Saudi Riyals (approximately ₹64,000), along with overtime wages, free accommodation, meals, and an annual return ticket. Acting upon these representations, Md. Ayaz allegedly paid ₹65,000/- and handed over his passport.

5. According to the complaint, upon reaching Jubail City, Saudi Arabia, Md. Ayaz was placed in a different company, made to work under adverse conditions, and paid only about

₹44,800/- per month. When he sought leave after one year, the accused persons allegedly threatened him and confiscated his passport and Iqama. The complainant further alleged that he subsequently lost contact with his brother, visited the accused's office at Motihari, without success, and was allegedly abused and assaulted by accused no. 4. It is further alleged that despite issuing a legal notice, no response was received, and the accused persons continued to threaten the complainant, causing an alleged loss of approximately ₹4,00,000/-.

6. The learned counsel for the petitioners submits that the petitioners have been implicated in a false and concocted case. As a matter of fact the brother of the complainant, who had gone to work in the Kingdom of Saudi Arabia, was found to have misrepresented and was fined 8,000/- Dirhams and on account of non-payment of the same, he was not allowed to return to his country. It has further been submitted that on account of such order, which was passed by the Ministry of Labour, as contained in Annexure-3, the brother of the complainant was staying in the Kingdom of Saudi Arabia until the said fine is deposited by him.

7. It has thus been submitted that only to settle personal scores and to falsely implicate the petitioners and hold

them responsible for the non-returning of his brother, the present complaint case was filed. It has further been submitted that the complainant, after filing the present complaint, had also moved before the Superintendent of Police, Motihari, bringing to his knowledge the same fact that the petitioners were involved in cheating and duping innocent persons by giving false promise of providing them job and getting them VISA, however, the petitioners are involved in misappropriating such amount and they have also been cheating others, apart from his brother.

8. It has also been pointed out that from perusal of the reports, submitted by the A.S.I. of Malahi P.S. as contained in Annexure-4 as well as Annexure- 5, it would be evident that the police after thorough inquiry found that no such crime was being committed, specially, with regard to cheating or duping innocent persons and sending them to the Kingdom of Saudi Arabia for work. During the course of inquiry, it has come that the petitioners were innocent and they have not cheated any person.

9. The learned counsel for the petitioners thus submits that on account of such categorical finding by the police, the order taking cognizance based on mere statements made by a few witnesses and the complainant, which *prima facie* seems to

be vindictive on account of the fact that his brother was fined with 8,000/- Dirhams and was not able to come back to his country. It has also been submitted that in the background of such facts and circumstances, the order taking cognizance is bad in the eyes of law as on facts as well.

10. The learned APP for the State has submitted that from the perusal of the reports submitted by the police, it seems that there was evidence to show that the accused/petitioners were not involved in the kind of offences alleged by the complainant. It has also been pointed out that the complaint is not supported by any affidavit as required under the law. It has also been pointed out that from reading of the complaint, it would be evident that no attempt was made to report the said crime initially to the police, however, subsequent to the filing of the complaint, the complainant had approached the Superintendent of Police by filing applications with regard to the duping of the complainant's brother and others by the accused/petitioners.

11. Though the counsel for the opposite party no. 2 is not present, however he has filed a counter affidavit which states that the accused/petitioners had established a firm under the name *Highness Development Job* in the District of Motihari,

Bihar, and projected themselves as its Directors. It has further been stated that the accused/petitioners lured innocent and unemployed youths by representing that they could secure lucrative employment opportunities in foreign countries. On the strength of such representations, they allegedly collected substantial amount of money from the aspirants on the promise of arranging overseas employment.

12. It has also been stated in the counter affidavit that there is a specific allegation against the accused persons that on 06.07.2014, they took an amount of Rs. 65,000/ from the complaint and gave him a VISA of the Kingdom of Saudi Arabia. It has further been submitted that the accused/petitioners have made false representations of Jobs and Allowances. It has lastly been mentioned in the counter affidavit that the accused persons were involved in inducing and trapping the innocent and the unemployed youth, on the pretext of providing them Job in foreign countries.

13. Having heard the aforesaid submissions and taking into account the documents on record, this Court finds that during the course of investigation which was being carried out by the police, on an application made by the complainant, who had defied the judicial norms by approaching the Civil

Court by filing a complaint and parallely approaching the police, that the finding arrived at by the police was that the petitioners were not involved in any such kind of activity and the non-returning of the brother of the complainant was primarily for the reason that he had been punished by the Ministry of Labour, Kingdom of Saudi Arabia, wherein he was directed to pay 8,000/- Dirhams and his future employment was also terminated. It is also evident that on account of the failure to deposit the fine, the brother of the complainant was not allowed to return to his country. The categorical finding arrived by the police upon inquiry cannot be brushed aside by this Court and mere statements of the complainant and witnesses cannot form basis of any evidence against the petitioners.

14. In view of the settled law, the present application stands allowed and the impugned order dated 25.02.2016 passed by learned Sub-Judge-cum-A.C.J.M.-IV, Begusarai, in Complaint Case No. 3211C of 2015 (T.R. No. 969 of 2015) is set aside.

(Sourendra Pandey, J)

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