

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.82261 of 2024

Arising Out of PS. Case No.-565 Year-2022 Thana- MUZFFARPUR COMPLAINT CASE
District- Muzaffarpur

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Rita Kumari W/O Ashwini kumar R/O Village- Penar, P.O- Nokha, P.S-
Nokha, Distt.- Sasaram.

... .. Petitioner/s

Versus

1. The State of Bihar Bihar
2. Manoj Kumar S/O Shri Ra Janam Ram R/O Village- Sahbajpur, Near Durga
Sthan, P.S- Ahiyapur, Post- Bhikhanpur, Distt.- Muzaffarpur.

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr.Gyanendra Kr Shukla, Adv.

For the Opposite Party/s : Mr.Anuj Kumar Shrivastava, APP

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CORAM: HONOURABLE MR. JUSTICE SOURENDRA PANDEY
ORAL ORDER

3 06-02-2026 Heard learned counsel for the petitioner and learned

A.P.P. for the State. Despite valid service of notice, nobody

appears on behalf of the O.P. No. 2.

2. The petitioner has made the following prayer in this
application :-

*“That the instant application is being filed
for quashing the order dated 20.07.2024
passed by learned Additional Sessions
Judge-XVII, Muzaffarpur in Cr. Rev. No.
215/2023, whereby and whereunder the
learned Judge upheld the Order dated
20.03.2023 passed by the learned Judicial
Magistrate, 1st Class, Muzaffarpur,
whereby and whereunder learned Judge*



*has taken cognizance of offence under
Section 504, 506 I.P.C. in connection with
Trial No. 96/2023 (arising out of Complaint
Case No. 565 of 2022) against the
Petitioner.*

3. Learned counsel for the petitioner submits that the allegation primarily against the petitioner is that she had got her horoscope of her son made through the complainant and had also purchased some gems however she did not pay the entire amount for the same and Rs. 7,000/- remained to be paid.

4. Learned counsel for the petitioner submits that from plain reading of the complaint and also the solemn affirmation of the complainant, it would be evident that the allegations are primarily of certain transaction which had taken place between the petitioner and the complainant. It has further been submitted that not a chit of paper has been brought on record to suggest any payment being made to the petitioner and certain demand being made with regard to any material purchased from the complainant. Learned counsel has drawn the attention of this Court towards the order taking cognizance wherein the learned Judicial Magistrate-1st Class has recorded that from the material available, neither any document has been filed regarding the transaction that took place between the parties nor it is shown



that the abusive text messages that was sent by the accused, specifically related to the gems purchased. It has been submitted that looking at such material still no case under Sections 504 and 506 of the I.P.C. is being made out and yet the learned Court had taken cognizance. It has further been submitted that even the Revisional Court did not appreciate the facts of the case and has upheld the said order taking cognizance. Learned counsel appearing on behalf of the petitioner submits that the present complaint is a false and concocted case and no such transaction had taken place. It is at the behest of her husband that the present complaint has been lodged which also find support from the solemn affirmation of the complainant, who in paragraph 9 states that she has good relationship with the husband of the petitioner and they are still in talking terms and the petitioner and her husband have been living separately for the last 8 to 10 years. Learned counsel for the petitioner thus submitted that the continuation of the criminal proceeding in such cases would amount to abuse of the process of law.

5. Learned A.P.P. for the State submits that the allegation against the petitioner prima facie has been made out and therefore there is no illegality in the order impugned.

6. Having heard learned counsel for the parties and



taking note of the fact that the primary allegation is with regard to certain transaction which has taken place between the petitioner and the complainant, and even if it is taken on its face value, that the petitioner had purchased certain material from the complainant and had paid certain amount and had not paid the remaining amount, the recourse before the complainant was to file a money suit or approach the competent court of law and not file a complaint case.

7. This Court finds the present case to fall in the category of malicious prosecution and in view of the observations made by the Hon'ble Apex Court in the case of *State of Haryana and Ors. Vs. Ch. Bhajan Lal and Ors., reported in AIR 1992 SC 604*, the continuation of the criminal proceeding would amount to abuse of the process of law.

8. In view of the aforesaid submission, the order dated 20.07.2024 as well as the entire criminal proceedings arising out of Trial No. 96/2023 (arising out of Complaint Case No. 565/2022), is, hereby, quashed as against the petitioner.

9. The application stands allowed.

(Sourendra Pandey, J)

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