

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.1707 of 2024

Arising Out of PS. Case No.-70 Year-2019 Thana- AGRER District- Rohtas

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1. Awadhesh Singh S/O Sarju Rai R/O Village- Khudhanum, Belwa, Rohtas, P.S. Agrer, Belwan, Bihar- 802217
 2. Vijay Kumar Singh S/O Awadhesh Singh R/O Village- Khudhanum, Belwa, Rohtas, P.S. Agrer, Belwan, Bihar- 802217
 3. Mira Devi @ Mira Singh W/O Vijay Kumar Singh R/O Village- Khudhanum, Belwa, Rohtas, P.S. Agrer, Belwan, Bihar- 802217

... .. Petitioner/s

Versus

1. The State of Bihar
2. Vimala Devi W/O Ram Narayan Singh R/O Village Khudhanum, Belwa, Rohtas, P.S.- Agrer, Belwan, Rohtas , Bihar- 802217

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Puneet Siddhartha, Adv.

Mr. Chandra Mohan, Adv.

Mr. Aryan Sinha, Adv.

For the Opposite Party/s : Mr. Brajendra Nath Pandey, APP

CORAM: HONOURABLE MR. JUSTICE SOURENDRA PANDEY
ORAL ORDER

6 12-02-2026 Heard learned counsel for the petitioners and learned A.P.P. for the State. Despite the valid service of notice upon the O.P. No. 2, nobody appears on behalf of the O.P. No. 2

2. The petitioners have made the following prayer in this application :-

“That this is an application for invoking the inherent jurisdiction of this Hon’ble Court for quashing the order taking cognizance against the petitioners, passed by the learned Judicial Magistrate, 1st



Class, Sasaram vide order dated 29.11.2021 in connection with G.R. No. 1711 of 2019 arising out of Agrer P. S. Case No. 70 of 2019. The F.I.R. was registered under Sections 147, 148, 149, 341, 323, 379, 504 and 506 of the Indian Penal Code. Whereas, the cognizance was taken for the offences committed under Sections 341, 323, 504, 506 and Section 34 of the Indian Penal Code.”

3. Having heard the learned counsel for the parties and having gone through the respective pleadings, it is clear that the present F.I.R. was lodged against the seven accused persons with general and omnibus allegation. It has been submitted that the allegation of abuse is also general in nature and from the requirements in Section 504 of the Indian Penal Code, the ingredients with respect to intentional insult, insult so as to give provocation to the person insulted and the fact that the accused must know that such provocation is breach of public peace is missing. This court has observed that the petitioner no. 3 happens to be a lady while the petitioner no. 1 is 85 years old man and against whom allegation is only with respect to his presence at the place of occurrence. The submission made on



behalf of the learned counsel for the petitioners that the ingredients of malicious prosecution is writ large on the face of it as just prior to the lodging of the present F.I.R., the petitioners' side, the daughter of petitioner nos. 2 and 3, had in fact lodged Agrer P.S. Case No. 69/2019 which was a case under the POCSO Act. The submission made on behalf of the learned counsel for the petitioners with regard to no case being made out even on the prima facie reading as far as the offences under Sections 323 and 341 of the I.P.C. are concerned is supported by the fact that no specific attribution has been made with regard to the same as far as the petitioner nos. 1 and 3 are concerned.

4. The observations made by the Hon'ble Supreme Court in the case of ***State of Haryana and Ors. Vs. Ch. Bhajan Lal and Ors., reported in 1992 Supp (1)SCC 335***, wherein it was observed :-

“102. In the backdrop of the interpretation of the various relevant provisions of the Code under Chapter XIV and of the principles of law enunciated by this Court in a series of decisions relating to the exercise of the extraordinary power under



Article 226 or the inherent powers under Section 482 of the Code which we have extracted and reproduced above, we have given the following categories of cases by way of illustration wherein such power could be exercised either to prevent abuse of the process of any court or otherwise to secure the ends of justice, though it may not be possible to lay down any precise, clearly defined and sufficiently channelised and inflexible guidelines or rigid formulae and to give an exhaustive list of myriad kinds of cases wherein such power should be exercised.

(1) Where the allegations made in the first information report or the complaint, even if they are taken at their face value and accepted in their entirety do not prima facie constitute any offence or make out a case against the accused.

(2) Where the allegations in the first information report and other materials, if



any, accompanying the FIR do not disclose a cognizable offence, justifying an investigation by police officers under Section 156(1) of the Code except under an order of a Magistrate within the purview of Section 155(2) of the Code.

(3) Where the uncontroverted allegations made in the FIR or complaint and the evidence collected in support of the same do not disclose the commission of any offence and make out a case against the accused.

(4) Where, the allegations in the FIR do not constitute a cognizable offence but constitute only a non-cognizable offence, no investigation is permitted by a police officer without an order of a Magistrate as contemplated under Section 155(2) of the Code.

(5) Where the allegations made in the FIR or complaint are so absurd and inherently improbable on the basis of which no



prudent person can ever reach a just conclusion that there is sufficient ground for proceeding against the accused.

(6) Where there is an express legal bar engrafted in any of the provisions of the Code or the concerned Act (under which a criminal proceeding is instituted) to the institution and continuance of the proceedings and/or where there is a specific provision in the Code or the concerned Act, providing efficacious redress for the grievance of the aggrieved party.

(7) Where a criminal proceeding is manifestly attended with mala fide and/or where the proceeding is maliciously instituted with an ulterior motive for wreaking vengeance on the accused and with a view to spite him due to private and personal grudge.”

5. Considering the aforesaid judicial pronouncement and also taking into account the present facts and circumstances of the case, this court finds that the continuation of the criminal proceeding would amount to abuse of the process of law



especially for the fact that no case under Sections 504 and 323 of the I.P.C. is made out against the petitioners even the submission as far as the point of malicious prosecution is also available and therefore, on such ground also, the proceeding needs to be set aside.

6. In view of the aforesaid submission, the order dated 29.11.2021 as well as the entire criminal proceedings in connection with G.R. No. 1711 of 2019 arising out of Agrer P. S. Case No. 70 of 2019, is, hereby, quashed as against the petitioners.

7. The application stands allowed.

(Sourendra Pandey, J)

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