

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Writ Jurisdiction Case No.1451 of 2023

Arising Out of PS. Case No.-484 Year-2020 Thana- BHAGALPUR KOTWALI

District- Bhagalpur

=====

1. RABINDRA KUMAR TIWARY @ RAVINDRA KUMAR
TIWARY S/O LATE SHIV PUJAN TIWARY R/O MOHALLA-
ABHIRAMA COLONY, MAYAGANJ, PS. BARARI, DIST.
BHAGALPUR
2. VIVEK KUMAR TIWARY @ BIBEK KUMAR TIWARY S/O
LATE JITENDRA KUMAR TIWARY R/O MOHALLA-
SURYALOK COLONY, BAGBBARI, PS. BABARGANJ, DIST.
BHAGALPUR

... .. Petitioner/s

Versus

1. The State of Bihar
2. THE SUPERINTENDENT OF POLICE, BHAGALPUR
3. THE DY. S.P. (SADAR), BHAGALPUR
4. THE OFFICER-IN-CHARGE, KOTWALI (BARARI) PS,
BHAGALPUR
5. VISHNU DEO SINGH S/O LATE HRIDAY NARAYAN SINGH
R/O VILLAGE AND P.O.- NAGARPARA, PS. BIHPUR, DIST.
BHAGALPUR

... .. Respondent/s

=====

Quashing of F.I.R. – ulterior motive – abuse of the process of criminal law – a dispute regarding land has been given colour of criminal prosecution and in abuse of the process of criminal law, the F.I.R. has been lodged by the informant – the High Court has inherent power to prevent the abuse of the process of any court or criminal law in order to secure the ends of justice – in frivolous or vexatious proceedings, the court owes a duty to look into many other attending circumstances emerging from the record of the case over and above the averments - the Court while exercising its jurisdiction under section 482 of the Cr.P.C. or Article 226 of the Constitution of India need not restrict itself only to the stage of a case but is empowered to take into account the overall circumstances leading to initiation/registration of the case as well as the material collected in the court of investigation – allowing prosecution of the present case to continue, shall amount to miscarriage of justice to the petitioners because the present dispute at best gives rise to a civil case.

Cases referred:

- i. 2023 SCC ONLINE SC 947 (Salib @ Shalu @ Salim vs. State of U.P. & Ors.)

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Writ Jurisdiction Case No.1451 of 2023

Arising Out of PS. Case No.-484 Year-2020 Thana- BHAGALPUR KOTWALI District-
Bhagalpur

1.

RABINDRA KUMAR TIWARY @ RAVINDRA KUMAR TIWARY S/O LATE SHIV PUJAN TIWARY R/O MOHALLA- ABHIRAMA COLONY, MAYAGANJ, PS. BARARI, DIST. BHAGALPUR
2.

VIVEK KUMAR TIWARY @ BIBEK KUMAR TIWARY S/O LATE JITENDRA KUMAR TIWARY R/O MOHALLA- SURYALOK COLONY, BAGBBARI, PS. BABARGANJ, DIST. BHAGALPUR

... .. Petitioner/s

Versus

1.

The State of Bihar
2.

THE SUPERINTENDENT OF POLICE, BHAGALPUR
3.

THE DY. S.P. (SADAR), BHAGALPUR
4.

THE OFFICER-IN-CHARGE, KOTWALI (BARARI) PS, BHAGALPUR
5.

VISHNU DEO SINGH S/O LATE HRIDAY NARAYAN SINGH R/O VILLAGE AND P.O.- NAGARPARA, PS. BIHPUR, DIST. BHAGALPUR

... .. Respondent/s

Appearance :

For the Petitioner/s

:

Mr.Ranjan Kumar Jha

For the Respondent/s

:

Mr.Md. Nadim Seraj

CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR SINHA
ORAL JUDGMENT

Date : 19-01-2024

1. The present writ application has been filed by the petitioners for quashing of the F.I.R. bearing Kotwali (Barari) P.S. Case No. 484 / 2020 dated 31.08.2020 having G.R. No. 3347 of 2020 registered under Sections 341, 323, 379, 406, 420, 504, 506 / 34 of the I.P.C.

2. The prosecution case as recorded in the First Information Report based upon the written complaint of the informant / respondent no. 5 wherein he has stated that on



17.11.2001 the informant purchased 02 katha 10 dhur of land. The allegation against the petitioner no. 1 is that the plot as mentioned in the agreement for sale was not executed and instead a different plot was executed in favour of the informant bearing Plot No. 79-A, Sector 11/B-1, Chandra Shekhar Azad Colony, Bagbadi, Bhagalpur. As per the agreement Plot No. 52, Sector No. 11/B-1 at Chandra Shekhar Ajad Colony, Bagbadi, Bhagalpur was to be executed. It has further been alleged that when the informant complained about this to the petitioners who told the informant that he would get the plot as per the agreement but the plot as agreed upon was not executed in favour of the informant and all attempts made by the informant to get the plot went in vain. On 26.02.2020 the informant and his son went to the Office of the petitioners where the petitioner no. 1 along with his nephew i.e. petitioner no. 2 were present where the office staffs warned the informant and his son and asked them to return back else they would be killed and thrown to gutters and upon protest the informant and his son were assaulted by the petitioners and their staffs. One golden chain of 01 *bhar*, one golden ring of four grams and cash Rs. 11,200/- were snatched.

3. Learned counsel for the petitioners argued that the



present F.I.R. has been lodged with ulterior motive and in abuse of the process of criminal law inasmuch as the land was purchased by the informant in the year 2001 and after lapse of about 19-20 years the present F.I.R. has been lodged alleging that wrong plot was transferred in favour of the informant in the year 2001.

4. The owner of the land, who has executed the sale deed in favour of the informant has not been made accused and in order to wreak vengeance against the petitioners the present F.I.R. has been lodged after lapse of 20 years for the reason that in the year 2001 the informant came before the petitioner no. 1 for purchase of a piece of land in Chandra Shekhar Azad Colony, Bagbadi, Bhagalpur and the petitioner only introduced the informant with the owner of the land namely, Smt. Kumkum. The informant and the owner of the land entered into negotiation for purchase / sale of the land between them bearing Plot No. 52, Sector No. 02B/1 for a consideration amount of Rs. 37,000/- for which an agreement for sale was prepared on 17.11.2001. As per the agreement for sale the informant was to pay the amount within the stipulated time but the informant himself has violated the agreement and did not pay the amount within time for which the land owner declined to accept the



amount and to execute sale deed. However, on the request of the informant some other plot was transferred in favour of the informant by the owner of the land on 30.01.2003 bearing Plot Nos. 128 and 130 which would be evident from Annexure-3. The sale deed was registered on 30.01.2003 and the informant after carefully reading and understanding the situation put his signature, pasted his photograph and gave impression of all the five fingers of left hand on the sale deed. In the whole transaction of sale and purchase between the informant and the land owner - Smt. Kumkum the petitioner no. 1 was not in the picture. Neither the petitioner no. 1 was made witness nor he has put thumb impression / signature on the sale deed. He further argued that the informant subsequently entered into an agreement for sale of the subject land on 15.02.2023 in favour of Praveen Kumar and others.

5. On the other hand, learned counsel for the Respondent No. 5 / informant and the State argued that it is true that the case is very old one and the petitioners were not a party in the sale deed executed in favour of the informant.

6. I have heard learned counsel for the parties and have gone through the F.I.R. From perusal of the F.I.R. it appears that the main contention of the informant is that the plot which was



agreed to be transferred in favour of the informant bearing Plot No. 52, Sector No.-11/B-1 at Chandra Shekhar Azad Colony, Bagbadi, Bhagalpur was not sold and instead an another plot has been transferred in his favour. There is no allegation in the First Information Report that the petitioners were the owners of the plot and entered into an agreement for sale at any point of time with the informant. From the argument advanced on behalf of the petitioners it is evident that agreement for sale of plot no. 52, Sector No. 11/B-1 was entered into between the informant and the owner of the land Smt. Kumkum but the informant failed to abide by the terms and conditions of the agreement and did not pay the consideration amount as per the time line fixed in the agreement therefore the land owner declined to execute the sale deed of Plot No. 52, Sector No. 11/B-1 at Chandra Shekhar Azad Colony, Bagbadi, Bhagalpur in favour of the informant. However, the informant agreed to purchase another plot from the land owner and the same was transferred in favour of the informant by way of registered sale deed executed on 30.01.2003 by the land owner. It is after lapse of about 20 years the informant made out a story that he met the petitioners in their Office where the informant with his son were assaulted by the petitioners and their staffs.



7. Considering the background of the case and reading in between the lines this Court is convinced that the story of assault is a concocted one in order to harass the petitioners due to land transaction which had taken place between 2001-2003. This Court has impression that a dispute regarding land has been given colour of criminal prosecution and in abuse of the process of criminal law the F.I.R. has been lodged by the informant.

8. As distinguished from serious offences, there may be criminal cases which have an overwhelming or predominant element of a civil dispute. There is tendency to lodge / to set into motion the criminal law arising out of a civil dispute in order to harass and to wreak vengeance. They stand on a different footing insofar as the exercise of the inherent power to quash the criminal prosecution is concerned. The High Court has inherent power to prevent the abuse of the process of any court or criminal law in order to secure the ends of justice.

9. The Hon'ble Supreme Court in the case of Salib alias Shalu alias Salim v. State of U.P. and others reported in 2023 SCC ONLINE SC 947 has held that it will not be just enough for the Court to look into the averments made in the FIR / complaint alone for the purpose of ascertaining whether the necessary ingredients to constitute the alleged offence are



disclosed or not. In frivolous or vexatious proceedings, the Court owes a duty to look into many other attending circumstances emerging from the record of the case over and above the averments and, if need be, with due care and circumspection try to read in between the lines. The Court while exercising its jurisdiction under Section 482 of the Cr.P.C. or Article 226 of the Constitution of India need not restrict itself only to the stage of a case but is empowered to take into account the overall circumstances leading to initiation / registration of the case as well as the materials collected in the course of investigation.

10. Upon looking into the attending circumstances emerging from the record of this case over and above the allegations made in the F.I.R. with due care and circumspection, in my opinion, the present case has been lodged in abuse of the process of criminal law in order to harass the petitioners.

11. Accordingly, I come to the conclusion that allowing prosecution of the present case to continue, shall amount to miscarriage of justice to the petitioners because the present dispute at best gives rise to a civil case.

12. In the result, the F.I.R. bearing Kotwali (Barari) P.S. Case No. 484 of 2020 dated 31.08.2020, G.R. No. 3347 / 2020



is hereby quashed.

13. The application stands allowed.

(Anil Kumar Sinha, J)

praful/-

AFR/NAFR	AFR
CAV DATE	NA
Uploading Date	20-02-2024
Transmission Date	20-02-2024

