
(2008) 03 PAT CK 0032

In the Patna High Court

Case No : Criminal Miscellaneous No. 38384 of 2007

Ramraj Singh and Others

APPELLANT

Vs

State of Bihar and Another

RESPONDENT

Date of Decision : 05-03-2008

Acts Referred:

Penal Code, 1860 (IPC) — Section 323, 327, 34, 380, 504

Citation : (2008) 4 PLJR 609

Hon'ble Judges : Abhijit Sinha, J

Bench : Single Bench

Advocate : Punam Kumari and Gajendra Kumar Singh, for the Appellant; Jharkhandi Upadhaya for the State and Mr. Balmukund Pd. Sinha for O.P. No. 2, for the Respondent

Final Decision : Allowed

Judgement

Abhijit Sinha, J.—The petitioners who happen to be the father, brother, sister-in-law (bhaujai) and niece (bhagani) of the complainant have prayed for quashing of the order dated 30.4.2007 passed by Sri V.V. Gupta, learned Judicial Magistrate, 1st Class, Siwan, in Complaint Case No. 350/2007, T.R. No. 3996/2007, whereby he has taken cognizance against the petitioners under Sections 323, 327, 504, 506/34, 380 I.P.C. One Braj Kishore Singh, an Advocate of Civil Court, Siwan, the complainant, impleaded as O.P. No. 2 herein, filed the aforesaid complaint inter alia alleging that he lives with his family members in Siwan and his residential house in village Malik Tola. He had kept ten quintals of wheat in ten gunny bags in a locked room and when on 5.3.2007 at about 1 P.M. he went to his village home to collect the wheat, he saw that the lock of his room was broken and the wheat kept therein had been removed. He claims to have inquired from his father, petitioner no. 1, about the wheat but did not get any satisfactory answer. It is alleged that in the meantime the other accused persons also arrived and when the complainant accused them of having broken open the lock and taken away the wheat, all the accused persons started abusing him and

assaulted him with slaps and fists. The complainant has claimed that it were the accused persons who had broken open the lock of his door and stolen the ten bags of wheat worth Rs. 10,000/- and have sold them and when he had accused them of theft they have abused and assaulted him and had also advanced threat.

2. It has been submitted on behalf of the petitioners that there had been no participation amongst the family members and all the members of the family live jointly in the same house with petitioner no. 1, the father being the kana of the family who having retired as Headmaster was looking after the entire agricultural activities of the family and in that situation there was no question of ten quintals of wheat being kept by the complainant separately. In this context it has been submitted that the complainant is a greedy person who wanted to take all the retiral benefits received by his father and as he has refused to give the same to the complainant the complainant out of annoyance had filed this false case. It has also been submitted that the petitioner no. 1 had purchased a small house in Siwan in the name of his wife but the complainant was deriving ways and means to possess the same and often threatened to get that house registered in his own name or that of his wife to which the petitioner no. 1 did not agree. Since the complainant had faced resistance from the petitioner no. 1 in his effort to devour the retiral benefits of the father as also gain complete possession of the house purchased by the father in Siwan they have filed several complaint cases inter-se-six in all-most of which against the accused persons. The details of the six complaint cases filed by the complainant against the petitioners herein have been furnished and in all these cases the witnesses of the complainant are the same person. In the aforesaid circumstances it has been submitted by the Learned Counsel of the petitioners that as it is apparent that the complaint cases have been filed by the complainant with ill-motive and on a concocted stories the continuation of the criminal proceeding and the impugned order taking cognizance would be an abuse of the process of the Court.

3. From a plain reading of the complaint petition, it would be apparent that the same smells of vexatious prosecution and is not in good taste. It would also appear that the complainant himself had accused petitioners of being thieves and it was in retaliation thereof that he was abused and assaulted. No sane person would be able to tolerate false accusations levelled at him. Therefore, when the complainant abused the petitioners of having stolen, his wheat such false allegations was bound to boomerang and so it has resulted in the assault and abuse of the complainant.

4. The entire story as made out in the complaint petition appears to be frivolous and vexatious due regard being had to the six other complaint cases filed by the complainant and such frivolous litigations cannot be permitted to continue. Accordingly the impugned order taking cognizance is hereby quashed and the application is allowed.