

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.14292 of 2016

Arising Out of PS. Case No.-709 Year-2015 Thana- SARAN COMPLAINT CASE District-
Saran

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Rajiv Kumar Sinha Son of Sri Mithilesh Kumar Sinha Resident of Village and
PO Dhurlakh, PS Samastipur, District Samastipur, Presently working as
Branch Manager, Life Insurance Corporation of India, Marhawra Branch
Chapra.

... .. Petitioner/s

Versus

1. State of Bihar
2. Laljharia Devi wife of Son of Sona Lal Bhagat Resident of Koreyan Bazar
PS Bheldi, District Saran.

... .. Opposite Party/s

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Appearance :

For the Petitioner/s	:	Mr. Prashant Sinha, Advocate
		Mr. Kunal Kumar, Advocate
For the Opposite Party/s :		Mrs. Rina Sinha, APP

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CORAM: HONOURABLE MR. JUSTICE CHANDRA SHEKHAR JHA
ORAL JUDGMENT

Date : 27-03-2024

1. The present application preferred for
quashing of cognizance order dated 10-06-2015
passed by learned Judicial Magistrate, Chapra in Tr.
No. 980/15 arising out of complaint case No.
709/2015, whereby learned Magistrate took
cognizance for offences under Sections 323, 504 and
406 of the Indian Penal Code against petitioner.

2. The complaint case No. 709/2015



leading to institution of Tr. No. 980/15 was lodged by one Lal Jharia Devi alleging interalias as follows:-

(i) It is alleged that the complainant and her husband, namely, Sona Lal Bhagat purchased a policy bearing No. 537138740 through the LIC agent, namely, Kameshwar Ram and thereafter, her husband gave Rs. 10,000/- per year to the LIC agent for deposit in his policy. Later on, they gave Rs. 23,060/- to Kameshwar Ram for deposit in the LIC but it was not deposited with the LIC. When the complainant and her husband went to demand her money back, the LIC agent, Kameshwar Ram refused to return the amount and snatched her belongings. When the complainant went along with some villagers at the residence of the agent, he refused to repay the amount.

(ii) It is further alleged that when the complainant intimated the Branch Manager (petitioner) about the conduct of the agent, he did not extend any



cooperation rather told that the policy has lapsed.

3. Learned counsel appearing for the petitioner submitted that implication of petitioner appears only being Branch Manager of Life Insurance Corporation (in short "LIC"), Marhawra Branch, District- Chapra. It is submitted that the entire occurrence of abuse and assault as alleged were taken place between O.P. No. 2 and main co-accused namely, Kameshwar Ram, against whom the thrust of allegations are available, who was the agent of LIC with whom the husband of O.P. No. 2 deposited Rs. 23,060/- to deposit it further with Policy No. 537138740 of LIC. It is submitted that from the face of complaint, it can be gathered easily that no *prima facie* case as alleged can be gathered against petitioner for the reasons that no allegation of abuse and assault is available against petitioner. It is submitted that maximum incriminating narrations what



available against this petitioner is to reply O.P. No. 2 during course of conversation that no such amount as claimed was ever deposited with this branch of LIC. It is also submitted that there is no concept of vicarious liability in criminal proceedings, where implication of petitioner appears only for his vicarious liability being manager of the Marhawra Branch of LIC. It is further submitted that amount in issue was also alleged to be deposited with co-accused, Kameshwar Ram and as such present proceeding against petitioner is liable to be quashed.

4. Learned APP while opposing the prayer of application/petition submitted that petitioner was responsible to monitor the activities of co-accused/LIC agent, Kameshwar Ram being manager of said branch of LIC.

5. It would be appropriate to reproduce the paragraph no. 102 of the Apex Court decision in the



case of ***State of Haryana and Others vs. Bhajan Lal and Others reported in 1992 Supp (1) Supreme Court Cases 335***, which reads as under:

"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 give 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 informant 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 persons 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."

6. In view of aforesaid legal and factual submissions as implication of this petitioner appears only being manager of LIC Branch, Marhawra where the narration of complaint and also the SA of complainant on oath not suggesting any *prima facie*



offence as alleged against this petitioner. Accordingly, by taking guiding note of Guideline Nos. 1, 5 & 7 of **Bhajan Lal (supra)** case, impugned order of taking cognizance dated 10.06.2015 with all its consequential proceedings, *qua*, petitioner arising thereof as passed in connection with Tr. No. 980/2015 arising out of complaint case No. 709/2015 pending before learned Judicial Magistrate, 1st Class, Chapra is hereby quashed and set aside.

7. Hence, this application stands allowed.

8. TCR (Trial Court Records), if any, be returned to learned trial court alongwith the copy of this judgment.

(Chandra Shekhar Jha, J)

Archana/-

AFR/NAFR	NAFR
CAV DATE	NA
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