

## **Rama Shankar Singh @ R.S. Singh And Others Vs State Of Jharkhand And Others**

**Court:** Jharkhand High Court

**Date of Decision:** May 8, 2023

**Acts Referred:** Constitution Of India, 1950 " Article 226

Code Of Criminal Procedure, 1973 " Section 155(2), 156(1), 156(3), 482

Indian Penal Code, 1860 " Section 161, 165, 323, 341, 354, 379, 406, 420, 427, 452

Prevention Of Corruption Act, 1947 " Section 5(2)

**Hon'ble Judges:** Sanjay Kumar Dwivedi, J

**Bench:** Single Bench

**Advocate:** Indrajit Sinha, Bibhash Sinha, Nehala Sharmin, Atanu Banerjee

**Final Decision:** Allowed/Disposed Of

### **Judgement**

Sanjay Kumar Dwivedi, J

1. Mr. Indrajit Sinha, Advocate Mr. Bibhash Sinha, Advocate Ms. Nehala Sharmin, S.P.P. Mr. Atanu Banerjee, Advocate  
07/08.05.2023 Heard Mr.

Indrajit Sinha along with Mr. Bibhash Sinha, learned counsel for the petitioners, Ms. Nehala Sharmin, learned counsel  
for the State and Mr. Atanu

Banerjee, learned counsel for opposite party no.2.

2. This petition has been filed for quashing the entire criminal proceedings in connection with C.P. Case No.224 of 2012  
arising out of Siyaljori Police

Station Case No.25 of 2011, corresponding to G.R. No.1026 of 2011 including the order dated 22.03.2013, pending in  
the court of the learned

Additional Chief Judicial Magistrate, Bokaro.

3. Mr. Sinha, learned counsel for the petitioners submits that earlier the Complaint Petition No.429 of 2011 was filed by  
the complainant, which was

sent for registration of FIR and for investigation under Section 156(3) Cr.P.C. wherein it was alleged that complainant is  
a resident of Village

Bhagabandh, Police Station Siyaljori, District Bokaro and for purposes of earning livelihood he runs a Grocery Shop  
and Hotel (Kirana Dukan evam

Hotel), Betel kiosk (Pan Gumti), and a Saloon at Khata No. No.58, Plot No.1389, Village Bhagabandh, Police Station  
Siyaljori, District Bokaro and he

along with his family is residing at the same place. It was further alleged that the accused persons who are Managing  
Director of M/s. Electrosteel

Company, Chief Security Officer, Security Supervisor, Civil Engineer of the company, allure and deceive the local people whose lands are there in

order to acquire their land for the company. It was also alleged that accused No.5 on 20.11.2008 had entered into an agreement with the villagers of

Mahatha Tola wherein he had assured for providing job in the company and for development of the said area. The complainant further alleged that

under the said agreement neither the complainant has received any compensation nor any of the members of the complainant family have been

provided with an employment in Electrosteel Company, rather fraudulently an agreement has been got signed by the complainant, therefore the

complainant has also not registered his land over Khata No.58, Plot No.1389, 1204 and 1289 in favour of the Company. It was further alleged that

earlier as per the agreement the complainant has registered lands of some other Khata in favour of the company, however, neither he nor any of his

family members have been given employment in the company. It was also alleged that the accused persons are coercing the complainant to part with

his part of land measuring 3.29 acres in Plot No.1389 in Khata No.58, Village Bhagabandh, Police Station Siyaljori, District Bokaro. It was alleged on

02.08.2011 at around 03.00 p.m., the accused persons (six in numbers) came on a Scorpio Vehicle bearing Registration No.6201 and on the

instructions of accused No.1 beaten the complainant and his family members and thereafter accused No.2 took away Rs.10 thousand from the

counter and gave it to accused No.3 and thereafter loaded in their vehicle 5 Tins Double Elephant (Hathi) Musterd Oil, 5 Tin Refined Oil of Hemani

Company, 5 Bora Rice, Half Bora Chana Dal, 1 Bora Arhar Dal, Half Bora Mung Dal, Soap worth approximately 10 thousand rupees, all worth

Rs.20,000/- and also broke the wall of Saloon and Pan Gumti all worth Rs.4,000/-. Thereafter the accused No.1 directed to cover rest all items with

soil and thereafter HYVA vehicles filled earth all around due to which there was water all around the house and materials worth Rs.5 lakh kept in the

shop were damaged. The accused persons thereafter threatened that if the complainant did not register the land in favour of the Company he will

meet with even worse consequences. The learned Chief Judicial Magistrate, Bokaro had forwarded the said complaint petition to the Officer-in-

Charge, Siyaljori for registering a first information report in terms of Section 156(3) of the Code of Criminal Procedure and accordingly Siyaljori Police

Station Case No.25 of 2011 dated 12.08.2011 was registered as against the petitioners and others for offences under Sections 341, 323, 354, 406, 420,

427, 452, 379 of the Indian Penal Code and police took up the investigation.

4. Learned counsel for the petitioners submits that the said case was investigated by the police and the police has submitted charge-sheet whereby the

petitioners have not been sent up for trial. The police has opined that the dispute is civil in nature. He submits that opposite party no.2 filed protest

petition which was numbered as C.P. Case No.224 of 2012 alleging therein that the complainant has in his possession an area of 3.29 acres of

Khatiani land and his brother Bharat Mahatha also has 3.29 acres of khatiani land in Khata No.58, Plot No.1389, 1120 and 1289 in Mouza

Bhagabandh. The Electrosteel Company purchased 3.29 acres of land under the said khata and plots belonging to his brother Bharat Mahatha through

different Sale Deeds alongwith various other lands from different Raiyats of Bhagabandh Mouza acquiring total 82.89 acres of land under the said

Khata No.58 and Plot No.1389, however, the complainant Santosh Mahatha did not sell away any part of his 3.29 Acres of his land under khata

No.58 and Plot No.1389 and the complainant has in his possession the entire 3.29 acres of land and he has been enjoying the said 3.29 acres of land

by making his house, his ration shop, his hotel, saloon and Pan Gumti etc. etc. over a portion of 80 decimals of land in the said plot and the rest portion

of land out of 3.29 acres are paddy land and khatiani etc. The complainant through out is living in his house, made over the said plot of land with entire

family members earning his livelihood from the said ration shop, hotel, saloon and gumti etc. The complainant, however, has sold several lands to the

company under different khata and plots but not a single inch of land under khata No.58, plot No.1389. The said company after purchasing 82.89

acres of land under the said khata and plots from the different raiyats, made boundary walls, encircling more than 82.89 acres of land including the

unsold land of the complainant. The company, as such, has encroached and trespassed upon the unsold land of the complainant. However, the

company for the villagers of Bhagabandh, residing in the encircled portion of land for their ingress/egress/exit has provided one gate. The companies

accused No.1 Executive haws Director, been making persuasions and or pressurising the complainant to sell away/transfer the said 3.29 acres of land

in favour of the company, threatening that if the complainant does not transfer his land in favour of the company, he with his entire family shall stand

implicated in various false cases and consequently stand tortured and perished at the hands of the company. However, the complainant so far has not

bogged down nor succumbed to the pressure of the said accused No.1 and of the company. And by way of pressurising and forcing the complainant

to transfer the said unsold 3.29 acres of land to the company, the accused No.1 along with the accused No.2 to 6 and several other persons reached

to the house of the complainant and committed the criminal offences of causing grievous hurt to the complainant and his son and attempted to out raise

the modesty of the complainant's wife besides doing ransom of his properties, which are mentioned herein below: -

a. About 08 days before the date of occurrence of the offences complained, all harvest in the Paddy land of the complainant and other green plants

growing on the complainant's land were destroyed by accused No.1 and 2 along with the security guards at the direction and dictation of accused

No.1, the information Siyaljori whereof was lodged in P.S. by the complainant; however, no action was taken by the police against the accused

persons belonging to the Electrosteel Company Ltd.;

b. On 02.08.2011 at 3.00 pm, the date of occurrence and time, accused No.1 to 6 reached to the house of the complainant in a scorpio jeep No.6201

and soon thereafter, accused No.2 and 3 started ""Mar-pit"" with the complainant and upon ""Halla-Gulla"" raised thereon the wife of the complainant

came out of her house, whereupon the accused No.1, forcibly caught hold of her hairs, and with ulterior motive to out raise her modesty, punched her

with his fist over her chest and thrashed her down over the ground and started thrushing her with his legs, which caused injury to her;

c. Accused No.2 also started hitting Ram Prasad, the complainant's son with ""Lathi at his legs and whole body, causing injuries to him.

Apart all this, the accused No.3 & 4 also started ""Mar- Pit"" with the complainant. All these were done the dictation of accused No.1;

d. Thereafter, the accused No.1 directed accused No.2 to loot out all the articles stored in the Ration Shop of the complaint and to take out entire cash

from the cash box of the shop, which accused No.2 did and handed over the cash amount of about Rs.10,000/- to accused No.3. The accused No.3 &

4 further directed to load the entire looted articles viz. 5 tins of musterd oil, 5 tins of refined oils, 5 bags of rice  $\tilde{\text{A}}$ ,  $\tilde{\text{A}}$  $\frac{1}{2}$  bag of pulse etc. over their vehicle,

which were taken away by the accused No.3 & 4;

e. Soon after the loot incidence, the complainant attempted to inform the Siyaljori P.S. by mobile, but accused No.5 abusing the complainant snatched

his mobile.

f. Lastly, the accused No.1 dictated other accused persons to cover up to rest of had to suffer the belongings of the Ration Shop by loose earth and

further directed accused No.2, 3 & 4 to cover up the hole Ration shop and house by loose earth, which those accused persons executed, whereby

around the whole house and Ration shop water got dumped causing loss of about Rs.5 lakh to the complainant as all articles of Ration Shop sinked.

g. And further, before leaving the place of occurrence accused persons threatened the complainant that inspite of all these having been meted out to

the complainant at their hands if the complainant does not sell his 3.29 acres of the said land in favour of the company, the complainant shall have to

suffer serious consequences, more than what he had to suffer today.

h. On going to the Siyaljori P.S., the complaint/ information against the company's authorities by the complainant was not accepted; rather, the

complainant was advised by the Siyaljori P.S. to act in terms of the direction and dictation of accused No.1 & others of the company, failing which,

the complainant will be crushed under the wheels of the company's Popular Machine, and further it was said that no body can do anything against the

company, but it is the company, which will implicate the complainant and others of his family and shall get them sent to jail, as for the cause and help

the Siyaljori P.S. has been established by the company's help. From the F.R.T dated 31.12.2011, submitted by the investigating officer it appears that

the statements of 14 nos. Of witnesses have been recorded by the Investigating authority. Out of the said 14 witnesses, 8 witnesses are independent

witnesses.

5. Learned counsel for the petitioners further submits that the complainant has himself sold lands to the Company namely M/s Electrosteel Company

Limited in Plot No.1389 of Khata No.58 along with his other co-sharer vide registered deeds of sale dated 17.01.2008 and 19.11.2008 measuring in all

50.19 acres. He also submits that opposite party no.2 was also signatory witness to sale of that land. He submits that in light of the agreement

between the parties, family member has also been provided employment in the said company, thereafter, the present case has been filed and on the

protest petition, the learned court has taken cognizance looking into the solemn affirmation and enquiry witnesses. There is no reason of differing with

the charge-sheet and prima facie case has not been discussed in the order taking cognizance. To buttress his arguments, he relied upon the judgment

passed in Vineet Kumar & others v. State of Uttar Pradesh & another; [(2017) 13 SCC 369.

6. Paragraphs 22, 23, 24, 25, 26, 27 and 41 of the said judgment are quoted herein below:

“22. Before we enter into the facts of the present case it is necessary to consider the ambit and scope of jurisdiction under Section 482 CrPC

vested in the High Court. Section 482 CrPC saves the inherent power of the High Court to make such orders as may be necessary to give effect to

any order under this Code, or to prevent abuse of the process of any court or otherwise to secure the ends of justice.

23. This Court time and again has examined the scope of jurisdiction of the High Court under Section 482 CrPC and laid down several principles

which govern the exercise of jurisdiction of the High Court under Section 482 CrPC. A three-Judge Bench of this Court in State of Karnataka v. L.

Muniswamy [State of Karnataka v. L. Muniswamy, (1977) 2 SCC 699 : 1977 SCC (Cri) 404] held that the High Court is entitled to quash a

proceeding if it comes to the conclusion that allowing the proceeding to continue would be an abuse of the process of the court or that the ends of

justice require that the proceeding ought to be quashed. In para 7 of the judgment, the following has been stated:

“7. In the exercise of this wholesome power, the High Court is entitled to quash a proceeding if it comes to the conclusion that allowing the

proceeding to continue would be an abuse of the process of the court or that the ends of justice require that the proceeding ought to be quashed. The

saving of the High Court's inherent powers, both in civil and criminal matters, is designed to achieve a salutary public purpose which is that a court

proceeding ought not to be permitted to degenerate into a weapon of harassment or persecution. In a criminal case, the veiled object behind a lame

prosecution, the very nature of the material on which the structure of the prosecution rests and the like would justify the High Court in quashing the

proceeding in the interest of justice. The ends of justice are higher than the ends of mere law though justice has got to be administered according to

laws made by the legislature. The compelling necessity for making these observations is that without a proper realisation of the object and purpose of

the provision which seeks to save the inherent powers of the High Court to do justice, between the State and its subjects, it would be impossible to

appreciate the width and contours of that salient jurisdiction.”

24. The judgment of this Court in *State of Haryana v. Bhajan Lal* [*State of Haryana v. Bhajan Lal*, 1992 Supp (1) SCC 335 : 1992 SCC (Cri) 426] has

elaborately considered the scope and ambit of Section 482 CrPC. Although in the above case this Court was considering the power of the High Court

to quash the entire criminal proceeding including the FIR, the case arose out of an FIR registered under Sections 161, 165 IPC and Section 5(2) of the

Prevention of Corruption Act, 1947. This Court elaborately considered the scope of Section 482 CrPC/Article 226 of the Constitution in the context of

quashing the proceedings in criminal investigation. After noticing various earlier pronouncements of this Court, this Court enumerated certain

categories of cases by way of illustration where power under Section 482 CrPC can be exercised to prevent abuse of the process of the Court or

secure the ends of justice.

25. Para 102 which enumerates 7 categories of cases where power can be exercised under Section 482 CrPC is extracted as follows: (*Bhajan Lal*

case [*State of Haryana v. Bhajan Lal*, 1992 Supp (1) SCC 335 :

“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 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 Act concerned (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 Act concerned, 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.Ãçâ,~â€

26. A three-Judge Bench in *State of Karnataka v. M. Devendrappa* [*State of Karnataka v. M. Devendrappa*, (2002) 3 SCC 89 : 2002 SCC (Cri) 539]

had the occasion to consider the ambit of Section 482 CrPC. By analysing the scope of Section 482 CrPC, this Court laid down that authority of the

Court exists for advancement of justice and if any attempt is made to abuse that authority so as to produce injustice the Court has power to prevent

abuse. It further held that Court would be justified to quash any proceeding if it finds that initiation/continuance of it amounts to abuse of the process

of court or quashing of these proceedings would otherwise serve the ends of justice. The following was laid down in para 6:

“6. All courts, whether civil or criminal possess, in the absence of any express provision, as inherent in their constitution, all such powers as are

necessary to do the right and to undo a wrong in course of administration of justice on the principle *quando lex aliquid alicui concedit, concedere*

*videtur et id sine quo res ipsae esse non potest* (when the law gives a person anything it gives him that without which it cannot exist). While exercising

powers under the section, the court does not function as a court of appeal or revision. Inherent jurisdiction under the section though wide has to be

exercised sparingly, carefully and with caution and only when such exercise is justified by the tests specifically laid down in the section itself. It is to

be exercised *ex debito justitiae* to do real and substantial justice for the administration of which alone courts exist. Authority of the court exists for

advancement of justice and if any attempt is made to abuse that authority so as to produce injustice, the court has power to prevent abuse. It would be

an abuse of process of the court to allow any action which would result in injustice and prevent promotion of justice. In exercise of the powers court

would be justified to quash any proceeding if it finds that initiation/continuance of it amounts to abuse of the process of court or quashing of these

proceedings would otherwise serve the ends of justice. When no offence is disclosed by the complaint, the court may examine the question of fact.

When a complaint is sought to be quashed, it is permissible to look into the materials to assess what the complainant has alleged and whether any

offence is made out even if the allegations are accepted in toto.”

27. Further in para 8 the following was stated: (Devendrappa case [State of Karnataka v. M. Devendrappa, (2002) 3 SCC 89 : 2002 SCC (Cri) 539] ,

SCC p. 95)

“8. Judicial process should not be an instrument of oppression, or, needless harassment. Court should be circumspect and judicious in exercising

discretion and should take all relevant facts and circumstances into consideration before issuing process, lest it would be an instrument in the hands of

a private complainant to unleash vendetta to harass any person needlessly. At the same time the section is not an instrument handed over to an

accused to short-circuit a prosecution and bring about its sudden death. The scope of exercise of power under Section 482 of the Code and the

categories of cases where the High Court may exercise its power under it relating to cognizable offences to prevent abuse of process of any court or

otherwise to secure the ends of justice were set out in some detail by this Court in *State of Haryana v. Bhajan Lal* [State of Haryana v. Bhajan Lal,



1992 Supp (1) SCC 335 : 1992 SCC (Cri) 426] .

41. Inherent power given to the High Court under Section 482 CrPC is with the purpose and object of advancement of justice. In case solemn process

of Court is sought to be abused by a person with some oblique motive, the Court has to thwart the attempt at the very threshold. The Court cannot

permit a prosecution to go on if the case falls in one of the categories as illustratively enumerated by this Court in State of Haryana v. Bhajan Lal

[State of Haryana v. Bhajan Lal, 1992 Supp (1) SCC 335 : 1992 SCC (Cri) 426] . Judicial process is a solemn proceeding which cannot be allowed to

be converted into an instrument of operation or harassment. When there are materials to indicate that a criminal proceeding is manifestly attended

with mala fide and proceeding is maliciously instituted with an ulterior motive, the High Court will not hesitate in exercise of its jurisdiction under

Section 482 CrPC to quash the proceeding under Category 7 as enumerated in State of Haryana v. Bhajan Lal [State of Haryana v. Bhajan Lal, 1992

Supp (1) SCC 335 : 1992 SCC (Cri) 426] , which is to the following effect:

“102. (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.”

Above Category 7 is clearly attracted in the facts of the present case. Although, the High Court has noted the judgment of State of Haryana v. Bhajan

Lal [State of Haryana v. Bhajan Lal, 1992 Supp (1) SCC 335 : 1992 SCC (Cri) 426] , but did not advert to the relevant facts of the present case,

materials on which final report was submitted by the IO. We, thus, are fully satisfied that the present is a fit case where the High Court ought to have

exercised its jurisdiction under Section 482 CrPC and quashed the criminal proceedings.”

7. On the other hand, Mr. Banerjee, learned counsel for opposite party no.2 submits that by solemn affirmation, the case has been supported by the

complainant and looking into further enquiry witnesses, the learned court has taken cognizance under Sections 323, 427 and 34 of the Indian Penal

Code. There is no illegality in the order taking cognizance.

8. Ms. Sharmin, learned counsel for the State submits that the police has investigated the matter and charge-sheet has been submitting saying that the

dispute is civil in nature, however the learned court has taken cognizance on the protest petition.

9. In view of the above submissions of the learned counsel for the parties, the Court has gone through the materials on the record and finds that earlier

complaint case being Complaint Petition No.429 of 2011 was filed which was sent by the learned court under Section 156(3) Cr.P.C. for registration

of the FIR. The police has investigated the matter and submitted final form, which is on the record contained in Annexure-2 of the petition. Looking to

that, it appears that it has been stated in final form that the dispute is civil in nature. Admittedly, in the earlier complaint case, plot no.1389 is mentioned

which suggests that for the said plot, the case has been tried to be made out. The said plot has been registered in favour of M/s. Electrosteel Company

Limited vide deeds of sale dated 17.01.2008 and 19.11.2008. The co-sharer have also signed on the said sale deeds and one of the brother has filed

the present case against the petitioners, who are officials of M/s. Electrosteel Company Limited, which suggests that maliciously the present case has

been filed against the officials of the company. Further in the order taking cognizance, what are prima facie evidence against these petitioners, have

not been disclosed, which was required to be disclosed in view of the fact that in the charge-sheet, it has been submitted that the dispute is civil in

nature. Further, criminal law cannot be set into motion as a matter of course. It is not that the complainant has to bring only two witnesses to support

his allegations in the complaint to have the criminal law set into motion, as has been held by the Hon'ble Supreme Court in M/S. Pepsi Foods Ltd. &

Anr. vs Special Judicial Magistrate & Ors.; [(1998) 5 SCC 749].

10. In view of the above facts, reasons and analysis, the entire criminal proceedings in connection with C.P. Case No.224 of 2012 arising out of

Siyaljori Police Station Case No.25 of 2011, corresponding to G.R. No.1026 of 2011 including the order dated 22.03.2013, pending in the court of the

learned Additional Chief Judicial Magistrate, Bokaro are quashed.

11. Accordingly, this petition is allowed and disposed of.

12. Pending I.As., if any, are disposed of.