

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.172 of 2013

Arising Out of PS.Case No. -326 Year- 2009 Thana -AHIAPUR District- -

- =====
1. July Kumari D/O Mahendra Narayan Sah, resident of Village/ Mohalla Zero Mile Chowk, P.S- Ahiyapur, District- Muzaffarpur.
 2. Bandana Devi W/O Jai Prakash, resident of Village/ Mohalla Zero Mile Chowk, P.S- Ahiyapur, District- Muzaffarpur.
 3. Kalpana Devi D/O Mahendra Narayan Sah, resident of Village/ Mohalla Zero Mile Chowk, P.S- Ahiyapur, District- Muzaffarpur.
 4. Nitu Devi W/O Anil Kumar, resident of Village/ Mohalla Zero Mile Chowk, P.S- Ahiyapur, District- Muzaffarpur.
 5. Anil Kumar S/O Late Suresh Prasad, resident of Village/ Mohalla Zero Mile Chowk, P.S- Ahiyapur, District- Muzaffarpur.
 6. Jai Prakash Mandal S/O Late Chandan Mandal, resident of Village/ Mohalla Zero Mile Chowk, P.S- Ahiyapur, District- Muzaffarpur.

.... Petitioner/s

Versus

1. The State of Bihar
2. Ashok Kumar Arya S/o Late Lakhan Lal Arya, resident of village Lakhisarai Naya Bazar, Pachana Road, District Lakhisari

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Dr.Alok Kumar Alok, Advocate
For the Opposite Party No.1 : Mr. Hirday Prasad Singh, Addl.P.P.
For the Opposite Party No.2 : None

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CORAM: HONOURABLE MR. JUSTICE BIRENDRA PRASAD VERMA

ORAL JUDGMENT

Date: 16-07-2015

Heard learned counsel appearing on behalf of the petitioners and learned Addl.P.P. appearing on behalf of the State. However, none appears on behalf of the opposite party no.2, though the name of learned counsel is printed in the daily cause list.

2. The petitioners have filed the present petition under Section 482 of the Code of Criminal Procedure, 1973 (in short, “Cr.P.C.”) for quashing the order dated 19.09.2012 passed in T.R.No. 2046 of 2012, arising out of G.R.No.3314 of 2009 corresponding to Ahiyapur Police Case No. 326 of 2009, whereby the petition filed on behalf of the petitioners under Section 239 Cr.P.C. for their discharge

has been rejected.

3. Learned counsel appearing on behalf of the petitioners submits that the petitioners are in-laws of the alleged victim. According to him, there are no materials on the record for framing of charge against them. Therefore, the learned Magistrate ought to have allowed their prayer for discharge.

4. Learned Addl.P.P. appearing on behalf of the State, on the other hand, submits that the petitioners are named in the first information report vide Annexure-1 as accused persons. The criminal prosecution was started for offences under Section 498A, 323/34 of the Indian Penal Code and 3/4 of the Dowry Prohibition Act. According to him, during course of investigation, the witnesses supported the prosecution version, as a result thereof, chargesheet was submitted against the accused persons including the petitioners and thereafter by order dated 20.01.2011 cognizance was taken by the learned Magistrate. It is further contended that there is no illegality in the impugned order dated 19.09.2012 passed by the learned trial court warranting any interference by this Court.

5. After having heard the parties and on consideration of the materials available on the record, this Court finds that the learned trial court has considered all the materials available on the record while considering the prayer made on behalf of the petitioners for their discharge. In the impugned order, the learned trial court has recorded about sufficiency of the materials available on the record for framing charges against the petitioners. Learned trial court has given reference of different paragraphs of the case diary, wherein the witnesses have supported the prosecution version against the accused persons including the petitioners.

6. For the reasons recorded above, this Court does not

find any good ground to interfere with the impugned order. Accordingly, the present application has to fail and is accordingly dismissed. The order of stay passed on 28.01.2013 by a Bench of this Court stands vacated.

(Birendra Prasad Verma, J)

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