

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.10250 of 2013

Arising Out of PS.Case No. -179 Year- 2012 Thana -SAMASTIPUR COMPLAINT CASE District-

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Debu Rai Late Shanichar Rai Village - Kusaiya, P.S. - Warisnagar, Distt. - Samastipur

.... Petitioner/s

Versus

1. State Of Bihar
2. Geeta Dev W/O Rabindra Rai Village - Kusaiya, P.S. - Warisnagar, Distt. - Samastipur

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr.
For the Opposite Party/s : Mr. Surendra Kumar (App)

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CORAM: HONOURABLE MR. JUSTICE ADITYA KUMAR TRIVEDI
ORAL ORDER

4 17-07-2015 Heard learned counsel for the petitioner, Additional Public prosecutor and learned counsel for the opposite party no.2.

Petitioner is aggrieved by an order dated 09.07.2012 passed by the learned Lower Court in Complaint Case No. 179 of 2011 (Gita Devi Vs Debu Rai) whereby and whereunder, petitioner alongwith others has been summoned to face trial for the offence punishable under Section 147, 323, 435, 344 of the Indian Penal Code.

In brief, the case of the opposite party no. 2 is that in the back ground of prevailing animosity amongst the parties whereupon the parties are on litigating terms, since before, and further, there was an occurrence on 30.01.2012, for which a case



was instituted against the accused persons, who in common design, armed variously raided the house of the complainant out of whom Debu Ray sprinkled Kerosene Oil and lit fire in the house of the complainant which was protested by the complainant as well as Amresh Kumar. Bhola Rai had given rod blow while complainant was assaulted by the accused persons and further by tearing her cloth outraged her modesty.

It has been submitted on behalf of the petitioner that it has wrongly been mentioned in the complaint petition that petitioner happens to be the accused of murder case as he had already been acquitted by an order dated 02.03.2000 passed in sessions Trial No. 134/94/72/96, that shows dubious character of complainant. Furthermore, the parties are on litigating terms and on account thereof, case and counter case are there. That being so, it has also been submitted that learned lower court instead of proceeding with an enquiry under Section 202 Cr.P.C should have directed the police to register and investigate the case under section 156(3) of the Cr.P.C. and consequent thereupon, the order impugned is fit to be set aside.

Learned counsel for the opposite party no. 2 opposed the prayer and submitted that at the present stage, the prima facie case has to be seen which, the lower court has found from the

solemn affirmation as well as statement of the witnesses examined under Section 202 Cr.P.C.

Learned Additional Public Prosecutor endorsed the view.

Gone through the impugned order. The submissions whatever been raised on behalf of the petitioner may be taken by the defence during the course of trial. So far present stage is concerned, I do not see any kind of illegality and irregularity persisting in the order impugned. Hence, the instant petition is found devoid of merit and is, accordingly, rejected.

(Aditya Kumar Trivedi, J)

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