

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.666 of 2013

Arising Out of PS.Case No. -73 Year- 2012 Thana -KADAMKUAN District- -

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1. Koushlesh Kumar Jaiswal @ Babloo S/O Ramesh Narain Jaiswal
Resident Of Omkar Girls Hostel, Nayatola, Baripath, P.S- Kadamkuan,
Distt- Patna.

2. Sunil Kumar S/Omaheswar Prasad Resident Of Village- Jamalpur, P.S-
Kako, Distt- Jahanabad, At Present Residing At Omkar Girls Hostel,
Nayatola, Baripath, P.S- Kadamkuan, Distt- Patna.

.... Petitioner/s

Versus

1. The State Of Bihar

2. Gunjan Priya D/O Gopal Prasad Resident Of Village- Raxaul, Tumaria
Tola,P.S- Raxaul, District- Motihari.

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mrs. Soni Srivastava, Advocate.

For the Opposite Party/s : Mr. Satyendra Prasad, A.P.P.

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CORAM: HONOURABLE MR. JUSTICE VIKASH JAIN
ORAL ORDER

6 07-05-2015 Heard learned counsel for the petitioners and learned
A.P.P. for the State.

2. The present application has been filed for
quashing the order dated 1.5.2012 passed by Mrs. Rumpa
Kumari, learned Judicial Magistrate, 1st Class, Patna, whereby
and whereunder cognizance has been taken under Sections 341,
323, 354 and 504 of the Indian Penal Code in connection with
Kadamkuan P.S. Case no.73 of 2012.

3. According to the prosecution, the informant
was living in a hostel, namely, Omkara Girls Hostel, Naya Tola,
Patna at Room No.11. On the date of occurrence she found a



worm in her supper and complained about the same to the land lady, petitioner no.1. It is alleged that thereafter the landlady entered her room along with the petitioners armed with danda and assaulted the informant, when the petitioners even went to the extent of completely disrobing her and petitioner no.1 physically misbehaved with her in the presence of the landlady. It is further alleged that they snatched the mobile phone and wristwatch of the informant and locked her in a room for the whole night.

4. It is submitted on behalf of the petitioners that accusations in the F.I.R. are manifestly improbable and even absurd. It is inconceivable that the petitioners would physically misbehave with the informant in the presence of the landlady who was also the mother of petitioner no.1. The F.I.R. has been lodged in retaliation to a notice by the landlady on 15.12.2011 requiring the informant to vacate the hostel room in view of the informant's misbehavior with the servant and other hostellers.

5. Despite issuance of notice to O. P. No.2 none has entered appearance on her behalf nor none is present when the matter is called today.

6. Pursuant to the order dated 29.1.2013 a copy of the case diary has been received. It appears from the statements of various witnesses recorded therein that there was no doubt some

altercation with regard to quality of food and loss of her mobilephone, but none of them appear to have supported the more serious accusations of molestation as leveled by the informant.

7. The accusation that the petitioners being the son of the landlady and the servant working in the hostel respectively would cross all bounds of decency as alleged and go to the extent of outraging the modesty of the informant in the presence of the mother of petitioner no.1, and that too over a petty altercation, does not inspire confidence. I am in agreement with the submissions of learned counsel for the petitioners that such accusations are inherently improbable in the facts and circumstances of the case. The statements of witnesses recorded in the case diary do not appear to have supported the accusations. The informant, despite issuance of notice has also chosen not to appear before this Court.

8. The oft quoted Judgment of the Apex Court in 1992 Supp(1) SCC 335 ; the State of Haryana and ors. vrs. Bhajan Lal and ors. may be adverted to, paragraph 102 whereof illustrates the categories of cases in which this Court may interfere in exercise of its extraordinary powers under Section 482 of Cr.P.C. to prevent abuse of the process of the court and otherwise to meet the ends of justice. Category (v) postulates a situation where the

allegations made in the F.I.R. or complaint are so absurd and inherently improbable that no prudent person would ever reach a just conclusion that there is sufficient ground for proceeding against the accused person. This Court is of the view that the instant case is one covered under category (v) enumerated in paragraph 102 of the Bhajan Lal's case (supra).

9. In the ends of justice, therefore, the impugned order dated 1.5.2012 passed by Mrs. Rumpa Kumari, J.M. 1st Patna, taking cognizance against the petitioners under Sections 341, 323, 354 and 504 of the Indian Penal Code in connection with Kadamkuan P.S.Case No.73 of 2012 is hereby quashed.

10. The petition stands allowed.

(Vikash Jain, J)

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