

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.10747 of 2011

Arising Out of PS.Case No. -159 Year- 2010 Thana -null District- SEKHPURA

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1. Abhay Shankar
2. Kumar Nandan @ Nandan Kumar both sons of Late Hari Shankar Lal, Resident Of Village- Lond Bazar, P.S.- Sirdalla, Distt.- Nawada

.... Petitioner/s

Versus

1. The State Of Bihar
2. Amit Kumar @ Sri Suresh Prasad, Resident Of Mohalla- Chaksekhu, P.S.- Dalsinghsarai, District- Samastipur, Presently M/S Dress King, Budhali Chowk, P.S.- Sheikhpora, P.S.- Sheikhpora

.... Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Arbind Kumar, Advocate

For the Opposite Party/s : Mr. Binod Shankar Modi, APP

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CORAM: HONOURABLE JUSTICE SMT. ANJANA PRAKASH

ORAL JUDGMENT

Date: 05-02-2015

The Petitioners seek quashing of the order of cognizance dated 4.9.2010 passed by the Judicial Magistrate, 1st class, Sheikhpora in Complaint case No.159C of 2010.

The case of the Complainant Amit Kumar, who happens to be the nephew of Subhash Chandra, owner of the shop, is that on the date of occurrence the accused persons came to his shop and assaulted him as also snatched certain articles from the shop.

The Counsel for the Petitioners submits that fact of the matter is that the sister of the Petitioners has filed a case bearing Sirdhala P.S. case No.34 of 2010 under Section 498A I.P.C. against Subhash Chandra, owner of the shop, who happens to be the brother of Pawan Kumar, her husband on 27.3.2010. It is in retaliation to the

steps taken by her that the present Complaint has been filed with completely imaginary and absurd allegations.

Notices had been issued to the Opposite Party No.2, who does not deny the relationship but submits that fact of the matter is that the accused persons had come to the shop which was witnessed by a number of persons. Hence, the Petitioners should be put on trial.

Considering the background facts of the case, I would be inclined to agree with the submission of the Counsel for the Petitioners that the present Complaint has been filed more in the nature of vendetta to teach the Petitioners a lesson for having sided with their sister in the case filed by her against her in-laws under Section 498A I.P.C.

Hence, the application is allowed and the proceedings so far as the Petitioners are concerned including the order dated 4.9.2010 passed by the Judicial Magistrate, 1st class, Sheikhpura in Complaint case No.159C of 2010 are hereby set aside.

(Anjana Prakash, J)

Narendra/-

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