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.... Petitioner/s

1. The State of Bihar through the Principal Secretary, Home Department, Government of Bihar, Patna.
2. Anwar Sarver, Son of Late Anwar Azhar, Resident of Mohalla - Sohdi, P.O. + P.S. - Sohdi, District- Nalanda.

.... Respondent/s

For the Petitioner/s : Mr. Ansul Advocate.
For the State/s : Mr. Raju Giri, G.P. 30
For the Respondent No. 2 : Mr. Ashhar Mustafa, Advocate.

ORAL ORDER

5 27-07-2015

The writ application seeks quashing of F.I.R. of Sohsarai P.S. Case No. 43 of 2014 registered for offences punishable under Sections 406/379/504/506/34 of the Indian Penal Code which was instituted on the basis of Complaint Case No. 406(C) of 2014 which was referred to the police.

As per the allegations, the respondent no. 2, who is the husband of petitioner no. 2 has alleged that the petitioner no. 2 along with her father (petitioner no. 1) had come to the house of the informant and demanded Rs.

20,000/- and later on he found that the wife had been missing with ornaments valued at Rs. 1,00,000/- and also Rs. 15,000/- cash.

Learned counsel for the petitioners submits that there cannot be a more glaring example of the abuse of the process of the Court based on a patently false and frivolous allegation that the wife would run away with ornaments and cash. It is submitted that even if for the sake of argument, it is accepted that the ornaments were taken, there cannot be any allegation of theft since the ornaments belong to the girl and if it is taken away by her it cannot amount to theft since anything presented or given to the girl is not with the intention of conferring temporary ownership but rather given by way of complete gift whereby the recipient of the gift becomes the full owner. It is further submitted that when on the one hand it is alleged that the informant could not meet the demand of Rs. 20,000/- then it cannot be accepted that he would be having Rs. 15,000/- in cash with him which could have been taken away by his wife.

Learned counsel for the State submits that the investigation in the case is continuing.

Learned counsel for the respondent no. 2 submits that the case has been filed for an incident which did take place.

Upon considering the facts and circumstances of

the case and submissions of learned counsel for the parties, the Court finds force in the contentions of learned counsel for the petitioners. From the circumstances which emerge and taking into account the nature of the allegations, the reasoning advanced on behalf of the petitioners to show that such a case is nothing but an abuse of the process of the Court appears to be convincing to this Court. It has further been brought to the notice of the Court that during Mediation the petitioner no. 2 was not inclined to go and live with the informant in the background of the allegations made against her whereas respondent no. 2 was ready to take her back in the matrimonial home. This is another pointer to the fact that had there been truth in the allegations, then respondent no. 2 would not have been agreeable to take her back to the matrimonial home at the time of Mediation but doing so indicates that there was no real substance in the allegations and the same were for oblique purposes.

In view of the discussion made hereinabove, the application succeeds and the F.I.R. of Sohrai P.S. Case No. 43 of 2014 registered against the petitioners stands quashed.

(Ahsanuddin Amanullah, J.)

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