

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.37411 of 2012

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Annu Devi wife of Dhiraj Kumar, resident of Santar Mohalla, Ward No.12,
Post-Lakhisarai, P.s. & District-Lakhisarai.

.... Petitioner/s

Versus

State of Bihar & Anr

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Praveen Kumar

For the Opposite Party/s : Mr. Ajay Kumar Jha (App)

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CORAM: HONOURABLE SHRI JUSTICE DHARNIDHAR JHA
ORAL ORDER

5 14-05-2015

Heard.

The petitioner has been summoned by an order passed on 11.06.2012 by Judicial Magistrate, Ist Class, Lakhisarai in Complaint Case No.115(C) of 2012 by which the learned Magistrate after concluding the enquiry under Section 202 Cr.P.C. had held that offences punishable under Sections 323,341,504 and 379/34 Indian Penal Code was made out and that the petitioner be summoned to stand her trial.

The complainant Sidhsheshwar Prasad Singh filed a complaint petition alleging that the accused Dhiraj Kumar was creating a Nala by the side of her wall which was objected to upon which all the accused persons started abusing her and started slapping her and it was specifically alleged that accused no.1, i.e., Sudhir Kumar had ordered accused nos.3,6 and 7 to demolish the wall of the complainant upon which they all came armed with



hammer, khanti and chheni and started demolishing the wall and on being obstructed refused to relent from their acts and lastly, also threatened her of demolishing the whole wall. Accused Sudhir Kumar also ordered to assault the complainant upon which all accused persons started pelting stones and Sudhir Kumar himself gave a heavy blow with his hand on the mouth of the complainant as a result of which one of his teeth came out of its socket.

It appears that the complainant was examined on solemn affirmation which statement has been placed on the present record by filing the supplementary affidavit and the same appears at page-5 of it as Annexure-7. Two witnesses were also examined during the course of the enquiry under Section 202 Cr.P.C. and after considering the materials, like the statement of the complainant on solemn affirmation, the statement of witnesses on oath, the learned Magistrate passed the impugned order.

It was contended by learned counsel appearing on behalf of the petitioner that it might be the case that the petitioner had been named in the complaint petition as also in the statement on solemn affirmation of the complainant but no specific role has been assigned to her, even of uttering a word, and when the witnesses were deposing in enquiry, they had again not assigned

any role. The same statement was given by P.W.2 and that witness also did not name the present petitioner as amongst the accused persons.

The learned Magistrate has recorded a very short order without referring to the materials placed before me but what I find on perusal of the complaint petition, the statement of the complainant on solemn affirmation and the statements of the two witnesses examined during enquiry that in absence of any acts done or words spoken as regards the present petitioner Annu Devi her summoning order could not be justified.

While perusing the record, I found that she might have been named, may be for spiting at her on account of the petitioner being a lady and thus, humiliating the lady and the family she belonged to. Considering this aspect of the matter, I quash the order of summoning as against petitioner Annu Devi. The order as against others shall continue. The petition is allowed in the above terms.

(Dharnidhar Jha, J)

B.Kr./-Saif.

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