

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.25372 of 2013

Arising Out of PS.Case No. -255 Year- 2005 Thana -KISHANGANJ District- KISANGANJ

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1. Kanaia Lal Agarwal @ Kanhiya Lal Agarwal , son of Gulab Chand Agarwal

2. Shakuntala Agarwal, wife of Kanaia Lal Agarwal

All are residents of Islampur, Old Bus Stand, P.S. Islampur, District- West Dinjpur(W.B.)

.... Petitioners

Versus

1. The State of Bihar

2. Puspa Devi wife of Kishan Kumar Agarwal, resident of Darshan Kutti (1st Floor), Mahabir Marg , Kishanganj, P.S. Kishanganj, District- Kishanganj

.... Opposite Parties

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Appearance :

For the Petitioner/s : Mr.

For the Opposite Party/s : Mr. A.P.P.

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CORAM: HONOURABLE MR. JUSTICE RAKESH KUMAR
ORAL ORDER

2 01-04-2016 Heard learned counsel for the petitioners, learned Addl. Public Prosecutor and Sri Mukeshwar Dayal, learned counsel, who has voluntarily appeared on behalf of Opp.Party no.2.

The petitioners, invoking inherent jurisdiction of this Court under Section 482 of the Code of Criminal Procedure, has firstly prayed for quashing of order dated 19.03.2013 passed by the learned Addl. Sessions Judge, Kishanganj in Cr.Revision No.392 of 2008, whereby the learned Addl. Sessions Judge has rejected the revision i.e. Cr.Revision No.392 of 2008 preferred by the petitioners against the order of cognizance dated 05.10.2007 passed by the learned Sub Divisional Judicial Magistrate,

Kishanganj in Complaint Case no.C1322/2006.

Learned counsel for the petitioners submits that initially Opp.Party no.2 has filed a complaint, which was referred to the police under Section 156 (3) of the Code of Criminal Procedure. After registering the case, the police during investigation found the case untrue and, thereafter, final report was submitted. However, a protest petition filed by Opp.Party no.2 was treated as complaint petition and, thereafter, order of cognizance was passed. He submits that there is no material for proceeding with the case against the petitioners.

Sri Mukeshwar Dayal, learned counsel for Opp.Party no.2 has opposed the prayer of the petitioners. He submits that the present petition, in the garb of petition under Section 482 of the Code of Criminal Procedure, has been filed , which is virtually second revision and is barred under Section 397(3) of the Code of Criminal Procedure. Besides this, he submits that the police submitted final report with connivance of the petitioners and, thereafter, complainant and its witnesses were examined and during the course of enquiry they supported the case. The learned Magistrate being satisfied with the materials available on record has passed order of cognizance.

Normally, after rejection of revision, the petition under

Section 482 of the Code of Criminal Procedure is not entertained.

In view of facts and circumstances of the present case, I am not inclined to interfere with either of the orders. The petition stands dismissed.

(Rakesh Kumar, J)

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