

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.10146 of 2016

Arising Out of PS.Case No. -274 Year- 2009 Thana -JOGAPATTI District-
WESTCHAMPARAN(BETTIAH)

- =====
1. Ash Mohammad Mian Son of late Jag Mian
 2. Noor Jahan Khatoon Wife of Shahid Mian
 3. Khatmuliya Khatoon wife of Ash Mohammad Mian
- All are Residents of Village- Mahabirpur Police Station Jogapatti District
West Champaran.

.... Petitioner/s

Versus

1. The State of Bihar

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Brij Kishor Mishra

For the Opposite Party/s : Mr. Dr.Kumar Uday Pratap (App)

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CORAM: HONOURABLE JUSTICE SMT. NILU AGRAWAL
ORAL ORDER

2 18-05-2016 Heard learned counsel for the petitioners and
learned APP for the State.

The petitioners apprehend their arrest in connection
with Yogapatti P. S. Case No. 274 of 2009 for offences alleged
under Sections 323, 366 and 376/34 of the Indian Penal Code.
Initially, a complaint case was filed which was later on
registered as the present P.S. under Section 156(3) of the
Cr.P.C.

The prosecution case arising out of complaint case
is that Ash Mohammad Mian has solemnized second marriage
with two persons, namely, Laila Khatoon and Khatmuliya



Khatoon while the accused no. 4 Noor Jahan Khatoon is married wife of complainant, who is mother of his five children. The complainant alleged that on 10.06.2008 the accused no. 1 Ash Mohammad Mian and accused no. 3 Khatmuliya Khatoon on the point of weapon kidnapped his wife accused no. 4, namely, Noor Jahan Khatoon and they kept his wife here and there to whom the complainant was searching secretly as he had prestige in society and ultimately on 6.10.2009 he learnt that Ash Mohammad Mian and Khatmuliya Khatoon had kept his wife to their house where he went for taking back his wife but the accused no. 4 Noor Jahan Khatoon wife of the complainant denied to come with him. He alleged that Ash Mohammad Mian committed rape with his wife. He also alleged that Ash Mohammad Mian and Khatmuliya Khatoon did not return his wife and got the complainant flee from there assaulting with him fist and slaps.

It has been submitted by the learned counsel for the petitioners that the complainant has alleged and made petitioner no. 2 his wife as accused without any basis as the allegation was on the petitioner no. 1 to have committed rape on petitioner no. 2 but petitioner no. 2 has also been made accused and she has not come forward with any allegation against petitioner no.

1. He further submits that these petitioners have no criminal history as is evident from para-3 of this application and a false case has been lodged against these petitioners. He further submits that the occurrence is between 10.06.2008 to 06.10.2009 for more than one year and the complaint case was filed after inordinate delay of the date of occurrence which is an afterthought.

However, the learned APP for the State submits that the petitioners are named in the F.I.R., hence, opposes the prayer of bail.

Be that as it may, let the petitioners, above named, in the event of their arrest or surrender before the Court below within a period of eight weeks from today, be released on bail on furnishing bail bonds of Rs. 10,000/- (Ten thousand only) each with two sureties of the like amount each to the satisfaction of the learned Chief Judicial Magistrate, Bettiah, District-West Champaran in connection with Yogapatti P. S. Case No. 274 of 2009, subject to the conditions as laid down under Section 438(2) of the Cr.P.C.

(Nilu Agrawal, J)

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