

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.45101 of 2013

1. Narayan Purbey Son Of Late Raj Kuamr Purbey,
2. Birendra Kuamr S/O Late Raj Kuamr Purbey,
3. Meena Kumari W/O Ravi Bhushan Seth
All resident of 69, MIG, Hunuman Nagar, P.S.- Patrakar Nagar, District-
Patna.

.... Petitioners

Versus

1. The State Of Bihar.
2. Nilima Kumari D/O Raghunath Adig, Gola Bandh Road, P.S. -
Muzaffarpur Town, District- Muzaffarpur., At Present Address- 42,
Ashoka Palace Apartment, Block A, Exhibition Road, P.S.- Gandhi
Maidan, Patna.

.... Opposite Parties

Appearance :

For the Petitioners : Mr. Ansul, Advocate
For the State : Mr. J. Upadhyay, APP
For O. P. No. 2 : NONE

**CORAM: HONOURABLE MR. JUSTICE CHAKRADHARI
SHARAN SINGH
ORAL ORDER**

3 06-04-2016 The present application has been filed seeking quashing of the First Information Report of Patrakarnagar Police Station Case No. 224 of 2012, registered, on 08.09.2012, for the alleged offences punishable under Sections 406, 420, 341, 323/34 of the Indian Penal Code and all proceedings arising out of the said case.

It has been alleged in the First Information Report that the informant was married to petitioner no. 2 on 20.04.2008. Immediately, after the marriage, the informant learnt that her husband (petitioner no. 2) was of unsound mind, which fact was suppressed by his family

members, including petitioner no. 1 and petitioner no. 3. The petitioner no. 1 is the brother of the petitioner no. 2; whereas, petitioner no. 3 is his sister.

The informant had earlier filed Complaint Case No. 2970 (C) of 2008 alleging commission of offence under Section 498A of the Indian Penal Code. The informant is also said to have filed a case for declaring the marriage to be void before the Principal Judge, Family Court, Patna, being Matrimonial Case No. 606 of 2008. It is alleged that during the pendency of the said cases, petitioner no. 1 and petitioner no. 3 met the informant and assured that if she withdrew both the cases and filed a case for divorce by mutual consent, they would return all the money, ornaments etc., which were received at the time of marriage. Thereafter, the informant was made to sign certain papers by the petitioner no. 3 for filing petition for divorce by mutual consent. It is also alleged that 15 bond papers for Rs, 7,00,000/- were signed by the petitioner no. 2, i.e., ex-husband of the informant, with the assurance that she would withdraw the said amount from UCO Bank, Muzaffarpur. There are certain other allegations with respect to return of other materials belonging to the informant, which were kept in the house of her In-laws, which are not much relevant for the purpose of adjudication of the present case. The allegation is that the amount of Rs.

7,00,000/-, as assured to be paid through the bond papers to the informant, could not be paid because of incomplete signature of petitioner no. 2.

Learned Counsel for the petitioners has submitted that the only allegation that signature of petitioner no. 2 on the bond papers of Rs. 7,00,000/- was not complete, the present First Information Report has been lodged. He has drawn my attention to the order, dated 16.05.2013, passed by the learned Chief Judicial Magistrate, Patna, in connection with the present Patrakarnagar Police Station Case No. 224 of 2012, in which it has been mentioned that petitioner no. 2 has made his complete signature on the bond papers.

This case was taken up yesterday for final disposal. Though, Opposite Party No. 2 has entered appearance through her Counsel by way of vakalatnama, no representation on behalf of Opposite Party No. 2, the matter was adjourned for today, with a request to the learned Counsel for the petitioners to inform learned Counsel, who has filed vakalatnama on behalf of Opposite Party No. 2. Despite efforts, as indicated, taken, learned Counsel for Opposite Party No. 2 has not turned up. Deliberate absence of learned Counsel, after filing of vakalatnama before the Court, despite communication, amounts to showing disrespect to the Court. I deprecate

the conduct of Mr. Nagmani Kumar, who has executed the vakalatnama on behalf of Opposite Party No. 2, but has deliberately not appeared before the Court, at the time when this case was taken up for final disposal.

Mr. Ansul, learned Counsel for the petitioner, is right in his submission that allegations made in the First Information Report do not constitute a cognizable offence. Lodging of First Information Report with the allegation that signature of petitioner no. 2 on the bond papers were not complete does not, per se, constitute any offence; particularly, when the informant herself has alleged that petitioner no. 2 is of unsound mind.

Considering the facts and circumstances, as discussed and noted above, I do not find that any purpose would be served by allowing the criminal proceeding arising out of the said Patrakarnagar Police Station Case No. 224 of 2012 to continue. Accordingly, the First Information Report of Patrakarnagar Police Station Case No. 224 of 2012 and all proceedings arising out of the same are quashed.

This application is allowed.

(Chakradhari Sharan Singh, J.)

Prabhakar Anand/-

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