IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.24880 of 2016

Arising Out of PS.Case No. -332 Year- 2013 Thana -KANKARBAGH District- PATNA

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1. Vimla Jha, wife of Shri Bir Shankar Jha,
2. Bhavendra Jha, son of Shri Bir Shankar Jha, Both resident of D-129, Krishna Park, Devli Khanpur Road, P.S.-Neb Sarai, District- South Delhi, New Delhi-110068.

.... Petitioners

Versus

The State of Bihar

.... Opposite Party

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Appearance :

For the Petitioners	: Mr. Rajendra Narayan, Sr. Advocate. Mr. Vijay Kumar Singh
For the Opposite Party	: Mr. Nand Kishore Prasad, (App)
For the Informant	: Mr. Anjani Kumar, Sr. Advocate. Mr. Hans Raj, Advocate.

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CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR JHA

ORAL ORDER

4 01-09-2016 Heard both sides.

The petitioner Vimla Jha apprehends her arrest in Kankarbagh P.S. Case No. 332 of 2013, registered for the offences punishable under Sections 406, 420 and 34 of the Indian Penal Code and Section 138 of the Negotiable Instrument Act.

The informant alleged that he runs a petrol pump in the name of M/S Masaurhi Service Station in New Delhi. The petitioner and her son approached the informant at his office situated at Kankarbagh, Patna and persuaded the informant to provide diesel and petrol on credit and on every fortnight the price of supplied diesel and petrol would be paid. It is further alleged that altogether a sum of Rs. 43,48,204/- was lying due. Bhavendra Jha, son of petitioner Vimla Jha issued two cheques bearing no. 332897 dated 15.07.2013 of Rs. 21,09,701.17/- and cheque no. 332898 dated 17.07.2013 of Rs. 22,38,502.83/- of Axis Bank, but both cheques were bounced. The informant informed the petitioners about dishonour of cheques, on such the petitioner and her son with some anti-social elements came to the residence of the informant at Kankarbagh, Patna and assaulted the informant and his employees.

Shri Rajendra Narayan, learned senior counsel appearing on behalf of the petitioner submits that the petitioner is a lady aged about 70 years. The petitioner is, of course, one of the directors of tourism company run by her son Bhavendra Jha. The petitioner neither approached the informant nor accompanied her son and assaulted the informant and his employees. No chit of paper is signed by the petitioner. The petitioner did not issue any cheque in the name of the informant or his firm. The petitioner has been made accused only because she happens to be one of the directors of the company.

It is further submitted that the petitioner and her son filed W.P. (CRL) 1400/2013 in Delhi High Court where vide order dated 01.11.2013, the petitioners were directed to deposit 50% of the total amount i.e. Rs. 43,48,204/- to the Registrar General within two weeks and the rest of the amount will be deposited on or before 10.12.2013. The Registrar General shall keep the amount in a fixed deposit, till further orders. The son of the petitioner deposited the entire amount but a question of territorial jurisdiction arose and consequently the aforesaid petition was withdrawn. Thereafter, the petitioner and her son has filed this petition in this Court but her son was apprehended by Delhi Police and prayer for anticipatory bail on his behalf has already been withdrawn vide order dated 16.06.2016.

Shri Anjani Kumar, learned senior counsel as well as learned APP vehemently opposed the prayer for anticipatory bail and submitted that, of course, she did not issue any cheque in the name of the informant or his firm but petitioner is also a director of the company. The son of the petitioner is managing director to his company. It is further submitted that averment is made that son of the petitioner filed a petition before the SHO, Mehrauli, New Delhi which bears the seal of Mehrauli, Police Station, New Delhi but the informant filed petition under RTI Act and Additional Deputy Commissioner of Police, South District, Hauz Khas, New Delhi gave information that no complaint of Sri Bhavendra Jha has been received at P.S. Mehrauli, New Delhi during the month of January 2013.

It is further submitted that the petitioner and her son committed forgery and prepared many forged documents in order to mislead the Court. It is also submitted that the informant is a businessman and admittedly the petitioner and her son deposited the entire amount of Rs. 43,48,204/- in the Delhi High Court, let the petitioner be also directed to deposit the amount lying due against the company of the petitioner.

On the face of FIR, it appears that, of course, the informant made allegation that the petitioner and her son came to the office of the informant and persuaded him to provide diesel and petrol on credit for two weeks and after every two weeks the arrears should be paid but the amount of arrears goes to Rs. 43,48,204/-. The son of the petitioner issued two cheques one of Rs. 21,09,701.17/- and another of Rs. 22,38,502.83/-. Both the cheques were presented but cheques were not honoured. It is alleged that the petitioner and her son came to the residence of the informant situated at Kankarbagh, Patna and assaulted the informant and employees of the company. The petitioner is a lady and I do not find any chit of paper bearing the signature of the petitioner. Of course, the petitioner is director of the company run by her son and the son of the petitioner is liable to make payment.

Considering the facts aforesaid, the petitioner Vimla Jha, in the event of her arrest or surrender before the court below within a period of four weeks from the date of receipt/production of a copy of this order, is directed to be enlarged on bail on furnishing bail bond of Rs. 10,000/- (Ten Thousand) with two sureties of the like amount each to the satisfaction of Khyati Kumari Singh, the Judicial Magistrate, 1st Class, Patna in Kankarbagh P.S. Case No. 332 of 2013, subject to the conditions as laid down under Section 438(2) of the Cr.P.C.

(Prabhat Kumar Jha, J.)

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