

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.38379 of 2016

Arising Out of PS.Case No. -27357 Year- 2014 Thana -PATNA COMPLAINT CASE District-
PATNA

- =====
1. Ramesh Chandra Gupta son of late Ramchandra Gupta at present posted as Section Officer in Commissioner Office, Munger Division, Munger at present residing at Rajvanshi Nagar, P.S. - Shastri Nagar, District - Patna.
 2. Basanti Devi @ Basanti Kumari W/o Ramesh Chandra Gupta resident of Rajvanshi Nagar, P.S. - Shastri Nagar, District - Patna.
 3. Manjari Kumari daughter of Ramesh Chandra Gupta resident of Rajvanshi Nagar, P.S. - Shastri Nagar, District - Patna.
 4. Kimsy Kumari daughter of Ramesh Chandra Gupta permanent resident of Rajvanshi Nagar, P.S. - Shastri Nagar, District - Patna at present working as Software Engineer Infosys, Puna.
 5. Pratik Shrestha @ Rahul Kumar son of Ramesh Chandra Gupta permanent resident of Rajvanshi Nagar, P.S. - Shastri Nagar, District - Patna at present residing in Nitte village Manglore, Karnatak.

.... Petitioner/s

Versus

1. The State of Bihar.
2. Bhavya Raj D/o Shree Lalit Singh via Srikrishna Singh resident of village + P.O. - Shakardih, P.S. Parbalpur, District - Nalanda at present posted at Section - 13, Health Department, New Secretariat, Distt. Patna.

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Ashok Kumar Sinha
Mr. Anupanand Jha
Mr. Santosh kumar Singh
Mr. Santosh Kumar
For Opposite Party No.2 : Mr. Mbuj Nayan Chaubey
Mr. Sanjay Kumar Singh
For the State : Mr. Md. Arif

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CORAM: HONOURABLE MR. JUSTICE SHIVAJI PANDEY
ORAL ORDER

3 04-10-2016 Heard the parties.

This application has been filed for quashing the order dated 4.6.2016 passed in Complaint Case No.27357 of 2014 by the Judicial Magistrate Ist Class, Patna by which he has rejected the petition filed by the petitioners under Section 210

of the Code of Criminal Procedure (hereinafter referred to as the Code).

In the present case for the same offence one complainant as well as an FIR has been lodged. The question has been raised that in terms of Section 210 of the Code it requires amalgamation of two cases otherwise it may lead to contradictory order.

It appears the alleged offence has taken place on 10.2.2014 for that First Information Report has been lodged vide Mahila P.S. Case No.5 of 2014 for the offences under Sections 341, 323 and 509/34 of the Indian Penal Code and for the same alleged offence the informant filed a Complaint Case before the Chief Judicial Magistrate which was registered as Complaint Case No. 27357© of 2014, court after holding the enquiry took cognizance under Sections 354(B) and 323 of the accused persons against accused nos. 2 to 5 and they have been asked to face the criminal trial.

An application was filed before the court under Section 210 of the Code making submission as both cases are arising from the same incident, in view of Section 210 of the Code and also for the sake of justice both cases should be amalgamated to avoid conflict in the judgment, as there would

be no chance of pronouncement of any conflicting judgment but the court instead of amalgamating both the cases vide order dated 4.6.2016 directed that both cases will be tried by the same court but one by one.

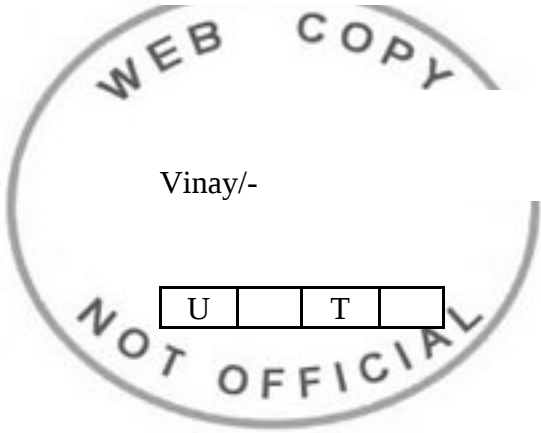
Learned counsel for the petitioners submits that the order of the court below suffers from illegality.

In view of Section 210 of the Code, both the cases have to be tried together as single case. If the order of the court below will be allowed in that circumstances the petitioner would succeed in such case another case would be rendered infructuous in the sense that if a person is put to trial and judgment is delivered the second trial for the same offence is prohibited in view of Section 300 of the Code of Criminal Procedure and in such circumstances the second trial would be useless.

In such view of the matter, the order of the court below is modified to the extent that both the cases be amalgamated and be tried together by the same court and there will be a single judgment in both cases.

With the aforesaid observation and direction this application is allowed to the aforesaid extent and the court below is directed to proceed with the matter in accordance

with law.



(Shivaji Pandey, J)