

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.25641 of 2014

Arising Out of PS.Case No. -13 Year- 2011 Thana -MAINATAND District-
WESTCHAMPARAN(BETTIAH)

- =====
1. SHAKINA KHATOON W/O ABDUL RAUF
 2. SHAMIM AKHTAR S/O LATE NEZAMUDDIN SHIEKH.
BOTH RESIDENT OF VILLAGE INARWA, POLICE STATION
MAINATAND, DISTRICT WEST CHAMPARAN.
 3. JAGAI RAM S/O LATE KANALI RAM RAJASWA KARMCHARI,
MAJHAULIA BLOCK, POLICE STATION MAJHAULIA, DISTRICT
WEST CHAMPARAN.

.... PETITIONER/S

VERSUS

1. THE STATE OF BIHAR.
2. BDO, MAINATAND, WEST CHAMPARAN.

.... OPPOSITE PARTY/S

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Appearance:

For the Petitioner/s : Mr. Zainul Abedin, Adv.
For the Opposite Party/s : Mr. Anil Kumar Singh-I(App)

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CORAM: HONOURABLE MR. JUSTICE ADITYA KUMAR TRIVEDI
ORAL ORDER

5 24-08-2016 Heard learned counsel for the petitioners as well as
learned Additional Public Prosecutor.

It has been submitted on behalf of petitioners that
the amount having allotted in name of Khaitun Nesha wife of
Alim Mian was received by Smt. Fatma Khatoon wife of Amin
Mian @ Alim Mian. The aforesaid amount was handed over by
the Incharge Panchayat Sachiv, Mukhiya Anisul Azam on the
recommendation of Ward Member, Shamim Akhtar as well as
Shakina Khatoon. The aforesaid event was exposed after having
been complained at the end of Khaitun Nesha wife of Alim
Mian. Petitioner Jagain Ram is the Incharge Panchayat Sachiv
while Shamim Akhtar, Shakina Khatoon are persons who have
recommended Fatma Khatoon wife of Amin Mian @ Alim Mian.

Contention on behalf of petitioners is that the amount had already been deposited and on account thereof, instant prosecution would be nothing but simply spoiling the time of the court. Therefore, the order impugned dated 11.04.2014 passed by the learned SDJM, West Champaran, Bettiah in Trial No.1792 of 2013 arising out of Mainatand P.S. Case No.13 of 2011 rejecting the prayer of discharge in terms of Section 239 Cr.P.C. be set aside.

The learned Additional Public Prosecutor opposed the prayer and submitted that these petitioners were well known to the fact that Fatma Khatoon was not at all wife of Alim Mian rather she was wife of Amin Mian @ Alim Mian. That being so, their criminal activities are exposed.

For the present purpose, the deposit of amount is immaterial more particularly as the event of temporary embezzlement still survives. That being so, instant petition lacks merit and is accordingly rejected.

(Aditya Kumar Trivedi, J.)

Prakash Narayan

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