

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.21818 of 2013

Arising Out of PS.Case No. -61 Year- 2010 Thana -GURARU District- GAYA

Nurjahan Khatoon, wife of Md. Ali Imam, resident of village - Mahuli,
Police Station - Guraru, District - Gaya

.... Petitioner

Versus

1. The State of Bihar
 2. Abdul Gani Son of Late Abdul Gafoor
 3. Salo @ Biwi Salo Khatoon, wife of Abdul Gani
- Both residents of Village - Mahuli, Police Station - Guraru, District - Gaya

.... Opposite Parties

Appearance :

For the Petitioner/s : Mrs. Anita Kumari Singh, Adv.
Mr. Dinesh Kumar, Adv.
For the Opposite Party/s : Mr. Madan Kumar, A.P.P.

CORAM: HONOURABLE MR. JUSTICE RAKESH KUMAR
ORAL ORDER

8 22-11-2016 Heard Smt. Anita Kumari Singh, learned counsel,

who was assisted by Sri Dinesh Kumar, learned counsel for the

petitioner and Sri Madan Kumar, learned Addl. Public Prosecutor.

The petitioner, who is the informant in Guraru
P.S.Case No.61/2010, corresponding to Sessions Trial No. 15/12
(363/12), registered for the offence under Sections 341, 323,
337/34 of the Indian Penal Code, has approached this Court,
invoking its inherent jurisdiction under Section 482 of the Code of
Criminal Procedure, with a prayer to quash an order dated
16.02.2013 passed by the learned Addl. Sessions Judge-VI, Gaya.
By the said order, the learned Addl. Sessions Judge exercising

power under Section 228(1) of the Code of Criminal Procedure has remitted back the matter to the court of learned Chief Judicial Magistrate fixing the date as 23.02.2013. The learned Addl. Sessions Judge has considered that offence under Section 307 of the Indian Penal Code, which was only Section triable by the Court of Sessions was not made out.

Short fact of the case is that initially on the basis of information given by the petitioner, an F.I.R. was lodged vide Guraru P.S. Case No.61/2010 for the offence under Sections 341, 323, 337/34 of the Indian Penal Code. In the case, the informant had alleged that Opp.Party nos. 2 and 3 had assaulted the informant/petitioner and her husband with bricks. In the said occurrence, the informant received serious injury on her eye. Though the case was registered for the offence under Sections 341,323, 337/34 of the Indian Penal Code, after investigation, the police submitted chargesheet under Sections 341, 323, 337, 338, 307, 504/34 of the Indian Penal Code. Since the offence under Section 307 of the Indian Penal Code was triable by the Sessions Judge, the case was committed to the Court of Session. At the time of charge, a petition was filed on behalf of the accused persons with a prayer that no offence under Section 307 of the Indian Penal Code was made out and, as such, the case was not triable by



the Court of Sessions. The learned Sessions Judge after filing of the petition examined the record in detail. He also examined the injury report. In the injury report, initially the injury was mentioned as simple in nature, but subsequently it was shown as grievous. In any event, since there was no allegation of repetition and only injury was found on the eye of the informant/ petitioner, the learned Addl. Sessions Judge by a detailed and speaking order, remitted back the matter to the court of learned Chief Judicial Magistrate.

Learned counsel for the petitioner tried to persuade the Court that it was a case under Section 307 of the Indian Penal Code and rightly the police after investigation had submitted chargesheet under Section 307 of the Indian Penal Code. According to learned counsel for the petitioner, the learned Addl. Sessions Judge has not exercised its jurisdiction under Section 228(1) of the Code of Criminal Procedure in its right perspective.

Besides hearing learned counsel for the parties, I have also perused the materials on the record, particularly the F.I.R., in which the prosecution case was specifically mentioned. After going through the F.I.R. as well as the impugned order, wherein entire fact has been discussed, the Court is of the considered opinion that the learned Addl. Sessions Judge has

rightly passed the order and remitted back the matter. The order requires no interference. The petition stands dismissed. However, since the occurrence had taken place in the year 2010, while dismissing the present petition, it is desirable to observe that the learned court below may take appropriate steps for early disposal of the case.

(Rakesh Kumar, J)

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