

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**Criminal Miscellaneous No.3915 of 2016**

Arising Out of PS.Case No. -1898 Year- 2013 Thana -BHOJPUR COMPLAINT CASE District-  
BHOJPUR

- =====
1. Narendra Kumar Son of Prasadi Sao, Resident of Village- Sohsarai, P.S.- Soh Sarai, Distt.- Nalanda, the then Electrical Superintending Engineer, Electric Supply Circle, Ara, At present Electrical Superintending Engineer, Patna, Supply Circle, R'Block, Patna.
  2. Shashi Bhushan Son of Late Damodar Baitha, Resident of Village- Harauli, P.S.- Hajipur Sadar, District Vaishali the then Electric Executive, Electric Supply Division, Ara at present Posted as Electric Executive Engineer, BRGE Cell, Backward Regional Grant Fund Cell, South Bihar Power Distribution Company Ltd. , Patna.
  3. Shashi Kant Kumar, Son of Shri Ramesh Prasad Resident of Village- Kishmeria, P.S.- Fatuha, Distt.- Patna the then Asstt. Electrical Engineer, Electric Supply Sub-Division, Ara, at present Asstt. Electrical Engineer, Electric Supply Sub-Division, Ram Krishna Nagar, By Pass, Patna, Kankarbagh-II, Distt. - Patna.

.... .... Petitioners

Versus

1. The State of Bihar.
2. Shalini Sinha, Wife of Amar Kumar Sinha, resident of Maulabagh, Ara, P.S.- Ara Town, District- Bhojpur.

.... .... Opposite Party

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**Appearance :**

For the Petitioners : Mr. Vinay Kirti Singh, Sr. Advocate  
Mr. Akhileshwar Singh  
Mr. Vijay Kumar Verma  
For the Opposite Party : Mr. Arun Kr.Singh 5(App)

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**CORAM: HONOURABLE MR. JUSTICE ARUN KUMAR**  
**ORAL ORDER**

7      30-10-2017                      Heard learned for the petitioners as well as the learned Counsel appearing on behalf of the State, but none appeared on behalf of the O.P. No. 2 despite the service of notice.

The petitioners seek quashing of the cognizance order dated 13.12.2013 passed by the Judicial Magistrate, Ara, in Complaint Case No. 1898(C) of 2013 whereby he has taken



cognizance of the offence under Sections 341, 323 and 354 IPC.

The short fact giving rise to the complaint is that electrical transformers were being installed in the locality of the complainant and the Assistant Electrical Engineer Shashi Kant Kumar was getting the transformer installed on the southern flank of the plot of the complainant, to which she protested. The said Assistant Engineer demanded Rs. 25,000/- for getting the location of the installation of the transformer shifted from that place. As the demand was not fulfilled so the accused persons started getting the transformer installed at that very place. Again when her husband objected, Assistant Engineer Shashi Kant Kumar abused and also pushed him down and got the transformer installed forcibly at that place. She filed application before Narendra Kumar and Shashi Bhushan, the Superintending Engineer and the Executive Engineer respectively, but the transformer was not shifted from there. So the complaint case was filed.

Learned Counsel appearing on behalf of the petitioners submits that as far as installation of transformer is concerned, the work is outsourced with the registered company with the Electricity Department and at equal distance transformers are installed on the flank of road in the land belonging to



Municipality or Corporation and it is always in front of one plot but that space is of the Municipal Corporation. The transformer was being installed on the land of the Municipal Corporation and not on the land of the complainant. The complainant also admits this fact in her application addressed to the Executive Engineer, Bihar State Electricity Board, Ara which was received on 23.10.2011 i.e. Annexure 5 of this application, wherein she states that the transformer was being installed in front of her plot. On 22.8.2011 she also wrote a letter to the District Magistrate, Ara but not made any complaint in that application regarding seeking any illegal gratification by the Assistant Engineer for shifting the place of transformer. Moreover, nowhere any such allegation was made to any higher authority. Only being aggrieved as she was desirous for shifting of installation of the transformer to some other place and not in front of her plot so this false case was filed maliciously. Even there is complete absence of any allegation in the complaint regarding outraging modesty of the complainant by any of the accused persons. The petitioners are Superintending Engineer, Executive Engineer and the Assistant Engineer of the Electrical Supply Circle, Ara.

Learned Counsel for the petitioners draws attention of



the Court to Section 168 of the Electricity Act, 2003, which gives protection of action taken in good faith by Appellate Tribunal or the appropriate Commission or any officer of the appropriate Government or any Officer or other employee of the Appellate Tribunal or of the Commission or officer or any public servant. These petitioners are also public servants and the transformers were being installed in the locality for the benefit of the people at large. Learned Counsel for the petitioners submits that the transformer was being installed in front of plot of the complainant on the land of the Municipality, so being aggrieved as it was not shifted as desired by her therefore maliciously this complaint has been filed. The learned Magistrate without finding prima facie any ingredient of the offence of outraging of modesty, as no such allegation is levelled in the complaint, has taken cognizance mechanically.

Contrary to that, learned Counsel appearing on behalf of the State submits that the Court has rightly taken cognizance and submits that the complainant in her statement during enquiry has stated that the accused persons entered into scuffle with her.

Having considered the rival submission and on perusal of the record, the Court finds that there is absence of any allegation regarding outraging of modesty by the accused



persons, even petitioner Nos. 1 and 2 are not alleged to be present on the spot. The transformer was being installed on the land of the Municipal Corporation, Ara and not on the private land of the complainant. It appears that the complainant objected installation of the transformer in front of her plot and as the same was not shifted elsewhere so maliciously this complaint appears to have been filed. There is no complaint submitted to any higher authorities or even to the District Magistrate, Ara through Annexure 12 she made complaint with regard to only installation of transformer in front of her plot but there is no whisper of demanding any illegal gratification by petitioner no. 3 for shifting the same elsewhere. No sanction has been obtained for prosecuting the accused persons who are public servants in view of Section 197 of the Code of Criminal Procedure. So for the said reason the complaint appears to have been filed to wreak personal vengeance against these public servants for not shifting the location of installation of the transformer from in front of the plot of the complainant to elsewhere; hence continuation of the criminal proceeding would be abuse of the process of the Court.

So the cognizance order dated 13.12.2013 passed by the learned Judicial Magistrate, Ara, in Complaint Case No. 1898(C) of 2013 along with the subsequent criminal proceeding



in the matter is hereby quashed.

The application stands allowed.

Snkumar/-

(Arun Kumar, J.)

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