

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.19409 of 2014

Arising Out of P.S.Case No. -226 Year- 2012 Thana -KESARIA District-
EASTCHAMPARAN(MOTIHARI)

- =====
1. Anil Sah Son of Late Hunardeo Sah
 2. Sunil Sah Son of Late Hunardeo Sah Both are resident of village-
Kadhan, P.S.- Kesariya, District- East Champaran

.... Petitioners

Versus

1. The State of Bihar
2. Sonalal Sah Son of Sri Laxuman Sah resident of village- Tirlokwa, P.S.-
Kesariya, District- East Champaran

.... Opposite Parties

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Appearance :

For the Petitioners : Mr. Anil Kumar, Advocate
For the Opposite Parties : Mr. Dr. M.K.Gautam, APP

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CORAM: HONOURABLE MR. JUSTICE SANJAY KUMAR
ORAL ORDER

4 20-06-2017 Heard both sides.

2. Petitioners have filed this application under Section 482 of the Cr.P.C. to quash the order dated 18.09.2013 whereunder cognizance for the offence under Sections 498A, 365, 364 and 120B of the IPC has been taken by Chief Judicial Magistrate, East Champaran, Motihari in Kesariya P.S.Case No.226 of 2012.

3. The facts in brief is that a complaint case was filed by one Sone Lal Sah on the file of Chief Judicial Magistrate, East Champaran, Motihari alleging inter-alia that his niece was married with petitioner no.1 for about eight years ago. After marriage, her



husband and his in-laws started torturing his niece in connection with demand of a motorcycle. The complainant visited at the place of her niece but he was not allowed to meet the victim. Subsequently, his niece was made traceless for which the present complaint case was filed and Kesariya P.S.Case No.226 of 2012 was registered. The matter was investigated and police submitted chargesheet under the aforesaid Sections. The court below took cognizance of offence against both the petitioners.

4. Counsel for the petitioners submits that the petitioner no.1 is the husband and he was residing with his wife at Delhi and so no offence under Sections 364 and 365 of the IPC is made out against any of the petitioners. There is no material constituting the offence under Sections 364 or 365 of the IPC and proceeding is fit to be quashed.

5. The learned APP however opposed the prayer of quashing.

6. On perusal of impugned order and material on record, I find that the petitioners are husband and Dewar of the victim. There is specific allegation that they used to torture and assault the victim and finally she was made traceless. The matter was investigated by police. In course of investigation, the witnesses have supported the allegation of assault and making the



victim traceless by these petitioners. The statement of witnesses in is recorded at paras-4, 5 and 6 of the case diary. The court below after going through the case diary and materials on record found prima-facie case under the aforesaid Sections and rightly took cognizance.

7. The criminal miscellaneous application is devoid of merit and is accordingly dismissed.

(Sanjay Kumar, J)

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