

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.2081 of 2015

Arising Out of PS.Case No. -1288 Year- 2011 Thana -BHOJPUR COMPLAINT CASE District-
BHOJPUR

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1. Munna Prasad son of Ram Pratap
2. Manish Prasad son of Munna Prasad
3. Mantu Kumar son of Munna Prasad
4. Indu Devi wife of Munna Prasad
5. Putul Kumari daughter of Munna Prasad All resident of Sheo Charan Lane Manpur, Police Station- Buniyadganj, District Gaya
6. Om Prakash Sah son of Late Lakhn Sao resident of New Godown, Budhwari P.S.- Kotwali, District- Gaya

.... Petitioners

Versus

1. The State of Bihar
2. Shanti Devi wife of Jawahar Prasad @ Thanthan, resident of D.M. Road, Jagdishpur, P.S.- Jagdishpur, District- Bhojpur

.... Opposite Parties

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Appearance :

For the Petitioners : Mr. Kumar Dharendra Pratap Singh, Advocate.

For the Opposite Parties: Mr. Awadhesh Kr.Singh(App)

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CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR JHA
ORAL ORDER

5 02-03-2017 Heard both sides.

2. The petitioner filed petition for quashing the order dated 26.02.2013 passed in Complaint Case No. 1288C/2011 by which the Sub-Divisional Judicial Magistrate, Ara found prima facie case under Section 380 read with Section 34 of the Indian Penal Code against the petitioners.

3. The opposite party no. 2 filed the complaint case alleging therein that on 04.05.2011, the accused persons came to the house of the complainant to take their daughter Priyanka. The



complainant requested the petitioners to stay in the night and on the next day their daughter would be allowed to go with them. On request the accused persons stayed at the house of the complainant, but when the complainant woke up in the early morning she did not find the accused persons in the house and door was open. Priyanka the daughter-in-law of the complainant was also not present. The complainant alleged that one box kept in the house containing ornaments worth Rs. 80,000/- was missing. On such complaint petition the complainant was examined on SA and the complainant also examined four witnesses. The learned Judicial Magistrate found prima facie case under Section 380 and 34 of the Indian Penal Code against the petitioner.

4. Learned counsel for the petitioners submits that the complainant happens to be 'Samdhin' of Munna Prasad, petitioner no. 1. Priyanka Devi daughter of Munna Prasad was married to Rajkumar Prasad son of the complainant and there was some dispute between the husband and wife. It is further submitted that the entire family members are made accused in the case in a dramatic way. The story as disclosed in the complaint, itself, does not inspire confidence. The order is cryptic as no reason is given for finding prima facie case against the petitioners.

5. On the contrary learned counsel for the opposite



party no. 2 submitted that the order does not require any interference. From the facts, it is evident that the occurrence took place on 04.05.2011 at 04:00 in the morning, but the complaint petition was filed on 01.08.2011 after three months of the occurrence. The complainant, herself, disclosed that the petitioners who are father, mother and other relatives of her daughter-in-law Priyanka Devi had come to her house for taking Priyanka to their house. Normally the entire male and female members do not come to the house of his daughter to perform 'Bidagari', but the complainant made the entire family members of her daughter-in-law accused in the case. The complainant did not see anyone who took her briefcase and no witness has stated the facts during course of enquiry. The Sub-Divisional Judicial Magistrate, Ara did not advert any evidence collected during course of enquiry in order to find whether any prima facie case is made or not and without giving any reasoning passed the order finding prima facie case under Sections 380 and 34 of the Indian Penal Code.

6. Therefore, the order is without any reasoning and not at all sustainable. Accordingly, the quashing petition is allowed.

7. The order dated 26.02.2013 passed in Complaint Case No. 1288C/2011 is set aside and the matter is remitted to the court of Sub-Divisional Judicial Magistrate, Ara to pass order



afresh in accordance with law.

(Prabhat Kumar Jha, J.)

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