

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.54043 of 2013

Arising Out of PS.Case No. -583 Year- 2008 Thana -NALANDA COMPLAINT CASE District-
NALANDA (BIHARSHARIFF)

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1. Binod Kumar Son Of Janak Lal R/O Mohalla- Navi Nagar (Nawada),
P.S. & District- Nawada
2. Uma Devi Wife Of Binod Kumar R/O Mohalla- Navi Nagar (Nawada),
P.S. & District- Nawada
3. Girdhari Lal @ Girwardhari Lal Verma @ Girdhari Lal Verma Son Of
Binod Kumar R/O Mohalla- Navi Nagar (Nawada), P.S. & District-
Nawada

.... Petitioner/s

Versus

1. The State Of Bihar
2. Shashi Kala Soni Wife Of Girwardhari Lal Verma @ Girdhari Lal, D/O
Rajendra Prasad R/O Mohalla- Navin Nagar, P.S. Nawada, District-
Nawada At Present Working As A.N.M. Referral Hospital Barachatti, P.O.
Barachatti, P.S.- Barachatti, District- Gaya

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mrs. Manisha Prakash
For the Opposite Party/s : Mr. Najir Ansari ,A.P.P.

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CORAM: HONOURABLE MR. JUSTICE SANJAY PRIYA
ORAL ORDER

4 02-05-2017

1. This application has been filed against the order dated 14.09.2012 passed in Complaint Case No. 538 (C)/2008 by the learned Sub-divisional Judicial Magistrate, Nalanda at Biharsharif, by which he has rejected the petition for discharge filed on behalf of the petitioners under Section 245 of the Code of Criminal Procedure.

2. Counsel for the petitioners has submitted that there is no material against the father-in-law, mother-in-law i.e.. petitioner no.1 and petitioner no.2. In support of her submission,



learned counsel for the petitioners has placed reliance on a judgment in the case of **Geeta Mehrotra –v- State of Bihar, reported in 2013(1) PLJR (SC) 10** and has argued that cognizance is liable to be quashed if general and omnibus allegation has been levelled.

3. In the instant case from the impugned order it appears that the learned Magistrate, after relying on the evidence of six witnesses examined before charge has found sufficient material to frame charge against all the petitioners for the offence under Section 498(A) of the Indian Penal Code and accordingly rejected the petition for discharge filed on behalf of the petitioner under Section 245 of the Code of Criminal Procedure.

4. It is also mentioned that earlier petitioner nos. 1 and 2 along with other accused persons had filed quashing petition before this Court for quashing the order of cognizance vide Cr. Misc. No. 17304 of 2011 whereby the criminal proceeding against three other accused persons were quashed but this Court did not interfere with the order with respect to these petitioners.

5. The court below is only required to see sufficient materials at the time of framing of charge on the basis of the statements of the witnesses recorded before charge. The Court is not required to appreciate the statements of the witnesses in the



manner as is done in the trial. Section 245(1) is very specific in this regard, which reads as follows:

“245. When accused shall be discharged-(1) If, upon taking all the evidence referred to in section 244, the Magistrate considers, for reasons to be recorded, that no case against the accused has been made out which, if un-rebutted, would warrant his conviction, the magistrate shall discharge him.”

6. Therefore, this Court does not find any illegality in the impugned order.

7. Accordingly, this Criminal Miscellaneous Application is dismissed.

(Sanjay Priya, J)

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