

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.51596 of 2013

Arising Out of PS.Case No. -1806 Year- 2011 Thana -DARBHANGA COMPLAINT CASE
District- DARBHANGA

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Bhupendra Jha @ Bhupendra Kr. Jha, Son of Sri Subodh Narayan Jha,
Resident of Village Vasant, P.S. Jale, District Darbhanga, presently residing
at Gandhi Murti Saguna More, P.S Danapur, District Patna.

.... Petitioner

Versus

1. The State of Bihar
2. Shyamal Kumar Mishra, Son of Geeta Mishra, Resident of Village
Maraitha, P.S. Jale, District Darbhanga.

.... Opposite Parties

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Appearance :

For the Petitioner	:	Mr. Ebrahim Kabir, Advocate Ms. Shruti Sinha, Advocate
For the State	:	Mr. Arun Kumar, APP
For O.P. No.2	:	Mr. Manoj Kumar Ambastha, Advocate

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CORAM: HONOURABLE JUSTICE SMT. NILU AGRAWAL
ORAL ORDER

3 25-05-2017 Heard learned counsel for the petitioner, learned
counsel for the opposite party no.2 and the learned APP appearing
on behalf of the State.

2. The petitioner, under Section 482 Cr.P.C., seeks
quashing of Complaint Case No.1806 of 2011 and the entire
criminal proceedings in which cognizance has been taken against
the petitioner under Section 504 of the Indian Penal Code and
summons have been issued to the petitioner.

3. The facts of the case is that opposite party no.2 has
filed a complaint case numbered as Complaint Case No.1806 of
2011 against the petitioner and 5-6 unknown persons for offences



under Sections 323, 447 and 504 of the Indian Penal Code alleging that on 18.09.2011, the petitioner along with 5-6 persons came to his house, abused and beat him and when his wife came then they did same thing and petitioner snatched chain worth Rs.5000/-. On raising *hulla* the witnesses came and their lives got saved. It has further been stated that the complainant told the petitioner for settlement before *panchayat* but he did not respond to the same hence, the complaint case was filed.

4. It has been submitted by the learned counsel for the petitioner that no case, as such, under Section 504 of the Indian Penal Code is made out against the petitioner as no incident of such kind ever happened and the present complaint is an after thought and a malicious one in order to settle personal scores and the complainant is none other than the father-in-law of the petitioner's sister. The husband of his sister had tortured her for which she had instituted a case under Section 498A of the Indian Penal Code against her husband and also under the Domestic Violence Act. His sister has a son out of the wedlock with the complainant's son who has remarried and not paying her maintenance and just to harass the petitioner, this false case has been lodged by the father-in-law of the petitioner's sister. It has further been submitted that the father of the petitioner is an army



man and the petitioner is employed in a private venture after doing his MBA and just because the complainant's son or the complainant is not ready to provide maintenance as also, a divorce case has been filed by the son of the complainant against the petitioner's sister, this false case has been instituted against him.

5. Learned counsel for the opposite party no.2 however, opposes the prayer made by the petitioner and submits that a *prima facie* case under Section 504 of the Indian Penal Code is made out against the petitioner hence, the order of cognizance requires no interference.

6. Counsel for the State also adopts the argument made by the counsel for the opposite party no.2.

7. Considering the rival submissions of the parties and from perusal of the materials on record, there is some matrimonial dispute between the sister of the petitioner and the son of the complainant for which this present case has been lodged but the allegations are vague and ambiguous as made out in the complaint case. In order to settle matrimonial dispute, which is of private nature, the continuation of the proceedings under Section 504 of the Indian Penal Code in the aforesaid complaint case would be an abuse of the process of the Court. Under such circumstances, the order of cognizance dated 07.05.2012, passed



by the learned Judicial Magistrate, 1st Class, Darbhanga in Complaint Case No.1806 of 2011 as well as the criminal proceedings in Complaint Case No.1806 of 2011 is set aside.

8. Application is allowed.

(Nilu Agrawal, J.)

S.Kumar/-

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