

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.9222 of 2016

Arising Out of PS.Case No. -1681 Year- 2015 Thana -BEGUSARAI COMPLAINT CSAE District-BEGUSARAI

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1. Sujata Kumari D/o Sri Ram Bilash Singh
 2. Pawan Devi W/o Sri Ram Bilash Singh
 3. Asutosh Kumar
 4. Santosh Kumar Both sons of Sri Ram Bilash Singh All resident of village - Mosadpur, P.S. Barauni, District - Begusarai

.... Petitioners

Versus

1. The State of Bihar
2. Basant Kumar S/o Ram Kant Kumar R/o village - Dharaul, P.S. Bachhwara, District - Begusarai

.... Opposite Parties

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Appearance :

For the Petitioners : Mr. Ravindra Kumar, Advocate

For the State : Mr. J.N. Thakur, APP

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CORAM: HONOURABLE MR. JUSTICE ARUN KUMAR

ORAL JUDGMENT

Date: 30-08-2017

Heard learned counsel for the petitioners and learned Additional Public Prosecutor appearing on behalf of the State.

2. The petitioners have filed this application under Section 482 Cr.P.C. for setting aside order dated 17.06.2015, passed by Judicial Magistrate, 1st Class, Begusarai in Complaint Case No.1681C of 2015 thereby taking cognizance of the offence under Sections 417 and 465 of the Indian Penal Code.

3. The complainant Basant Kumar is the husband of Sujata Kumari, the accused, who is one of petitioners in the present application. The allegation in brief is that during reconciliation in the Divorce Suit No.160 of 2013 pending before the Family Court, Begusarai the complainant put a proposal to take back his wife on



condition that she gets her illness treated and only after getting cured would take her back so gave her Rs.10,000/- for treatment with condition that she would furnish the details account of the expenditure incurred during her treatment and further expenditure if required would be paid by him. The specific acquisition is that the accused persons submitted a bill of Rs.32,155/- inclusive of the rail fare from Barauni to Delhi and the return journey and also of hotel rent bill but all these bills are forged bills so an attempt was made to cheat the complainant.

4. Learned counsel for the petitioners submits that complainant is the husband of petitioner no.1 and rest other petitioners are mother-in-law, brother-in-law of the complainant and other family members of the wife. The allegation levelled in the complaint is patently absurd and taking into account the entire allegation, no offence of cheating and creating forged documents is made out, the complainant is not intending to pay the expenditure incurred on treatment of petitioner no.1, therefore, this false allegation was levelled. It is further submitted that petitioner no.1 has filed cases under Section 498A of the Indian Penal Code against her husband (the present complainant) subsequent to the divorce suit and also maintenance case.

5. Learned counsel appearing on behalf of opposite party



no.2 opposes the prayer of the petitioners.

6. Learned APP appearing on behalf of the State submits that there is no illegality in the impugned order of taking cognizance.

7. Having considered rival submissions and on perusal of records, it appears that petitioner no.1, wife of the complainant, filed the bill relating to expenditure incurred in her medical check-up in Delhi including the to and fro railway fare from Barauni to Delhi and also bill of the hotel. There appears no material showing *prima facie* that the medical bills and other as forged one. The complainant and his wife, petitioner no.1, are on litigating terms due to matrimonial discord and divorce suit as well as case under Section 498A of the Indian Penal Code and maintenance are pending between them. In the backdrop of these facts, the allegations levelled in the complaint do not make out *prima facie* case against the petitioners, so the cognizance order dated 17.06.2015, passed by Judicial Magistrate, 1st Class, Begusarai in Complaint Case No.1681C of 2015 is set aside.

8. In the result, this application stands allowed.

(Arun Kumar, J.)

S.Kumar/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	08.09.2017
Transmission Date	08.09.2017

