

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.47355 of 2014

Arising Out of PS. Case No.-185 Year-2013 Thana- BIHIYA District- Bhojpur

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1. Laxman Gond Son of Late Chandip Gond
 2. Bhuwar Gond @ Dharmendra Gond son of Laxman Gond Both resident of Village - Lahang Dumaria, P.S. - Bihiya, District - Bhojpur.

... .. Petitioner/s

Versus

1. The State of Bihar.
2. Sunita Kumari D/o Rajendra Prasad resident of Village - Bharauli, P.S. - Shahpur, District - Bhojpur.

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Bharat Lal
For the Opposite Party/s : Mr. PRANAV KUMAR (APP)

CORAM: HONOURABLE MR. JUSTICE S. KUMAR
ORAL JUDGMENT

Date : 29-11-2017

Heard learned counsel for the parties.

This petition under Section 482 of the Cr.P.C has been filed for quashing the order dated 17.05.2014, passed in G.R. No. 3798 of 2013/ Tr. No. 624 of 2014 arising out of Bihiya P.S. Case No. 185 of 2013 by which Chief Judicial Magistrate, Bhojpur, Ara, has taken cognizance against the petitioners for the offences punishable under sections 420, 406, 495 read with 120B of IPC.

Briefly stated, the facts of the case as per FIR is that informant was married with Jitendra Kumar Gond (son of petitioner no. 1) on 25.04.2012, according to hindu custom and



rites, but she was not sent to her matrimonial house after the marriage. The petitioner no. 1 wanted to take her to her matrimonial home on 14.02.2014, but according to informant, Reena Devi wife of Laxman Gond of village Shivpur PS Shahpur District Bhojpur and daughter of Tengar Gond informed that Jitendra Kumar Gond in Indo Tibettan Border Police Force had married with said Reena Devi and she has a child from him and she had been cheated by said Jitendra Kumar Gond and after having knowledge of said marriage, informant refused to go to her matrimonial home. It has further been stated in the FIR that the family members of accused petitioners have committed criminal offence and a panchayat was also convened and a fine of Rs. 1,50,000/- was directed to be paid by the family of Jitendra Kr Gond but even after four months the same was not paid and hence this FIR was instituted.

Learned counsel for the petitioners has submitted that they are innocent and have been falsey implicated in this case. It has been further submitted that Jitendra Kumar Gond was married to informant-Sunita Kumari and the story of his being married to one Reena Devi is false and concocted and only an excuse by the informant for not going to her matrimonial home for the reasons best known to her. It has



been further stated that Jitendra Kumar Gond filed a Matrimonial Case No. 484 of 2013 for restitution of conjugal rights on 14.06.2013, and after notices were issued to informant the present false and mischievous case has been filed only in order to avoid to going to her matrimonial home. The said Reena Devi is already married with Laxman Gond and as such marriage of said Reena Gond with Jitendra Kumar Gond is only an imaginary story cooked by the informant and petitioners have been wrongly implicated in this false and concocted case.

On the basis of such written complaint made by informant, FIR was registered against the petitioners and other accused and after investigation police has submitted chargesheet against the petitioners and other accused and on the basis of chargesheet submitted by the police the court below has taken cognizance against the petitioners and supplementary investigation is being continued against the rest of the accused.

After going through the materials available on record, the court below found *prima facie* case to be made out against the petitioners and took cognizance under section 420 406, 495 read with 120B of IPC and issued summons for their appearance to face the trial.

The High Court in its inherent jurisdiction cannot



substitute the finding of the trial court for issuing summoning orders. The sufficiency and adequacy of the evidence cannot be gone into by the High Court in its inherent jurisdiction, as the same is the function of the trial court, as such I am not inclined to interfere in the order passed by the trial court, however, the petitioners are granted liberty to raise all the issues raised in this petition as well as all other issues available to them in law at the subsequent stage of trial i.e at the time of consideration of their discharge petition or framing of charge, if not already framed.

With such liberty and observation the present petition is disposed of.

(S. Kumar, J)

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CAV DATE	
Uploading Date	
Transmission Date	

