

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No. 49650 of 2013

Arising out of P.S. Case No. - 771 Year - 2011 Thana - PATNA COMPLAINT CASE District - PATNA

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1. Uday Kumar, S/o Sri Ramanand Rai
 2. Smt. Vinita Gilbert, W/o Uday Kumar, daughter of Late Anthony John Gilbert, both resident of Flat No. C-3A/50, C.L.I. Colony, Janakpuri, Near Janakpuri, Cinema Hall, P.S. - Janakpuri, New Delhi - 58
 3. Md. Azi Khan @ M.A. Khan, S/o Late Md. Mainulla Kha
 4. Smt. Emmy Anita Gilbert, W/o Md. Azi Khan @ M.A. Khan, D/o of Late Anthony John Gilbert, Both resident of House No. Rz-33B, IInd Floor Lane No. 13, Tughlakabad Extension, P.S. - Tughlakabad, New Delhi - 19
 5. Smt. Shweta Paul @ Shweta Gilbert, W/o Suman Florence, Resident of House No. U - 135, 1st floor, Nand Apartment Near Laxmi Metro Station, Shakarpur, P.S. - Laxmi Nagar, Delhi - 92

.... Petitioners

Versus

1. The State of Bihar
2. Teresa Jhon Gilbert, wife of Anthony John. Gilbert, resident of C/o St. Joseph Hostel, Permanent R/o of Christian Colony, P.S. - Budha Colony, Distt. - Patna-800001

.... Opposite Parties

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Appearance :

For the Petitioners : Mr. Sunil Kumar Singh, Advocate
Mr. Ashok Kumar, Advocate
For the Opposite Parties : Mr. Bishnukant Dubey, A.P.P.
Mr. Lalmani Sharma, A.P.P.

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CORAM: HONOURABLE MR. JUSTICE BIRENDRA KUMAR

ORAL JUDGMENT

Date: 13-01-2017

Heard learned counsel for the petitioner and learned
Additional Public Prosecutor for the State.

2. This is an application under Section 482 Cr.P.C.
for quashing the order dated 28.05.2011 passed in Complaint Case
No. 771(C) of 2011 by the learned Judicial Magistrate 1st Class, Patna
Sadar whereby the learned court below has directed issuance of
process against the petitioners to face trial for offences under Sections
387, 379, 323, 347 and 506/34 of the Indian Penal Code.



3. The complainant-opposite party no. 2 is the mother of the female petitioners and mother-in-law of the male petitioners. Allegation is that for property dispute, the petitioners entered into the house and committed wrongful confinement of the complainant, assault against other family members and criminal intimidation.

4. Submission of the petitioners is that for the alleged date of occurrence dated 24.07.2010, the complaint case was filed on 17.03.2011 in a pre-planned and thoughtful manner only after criminal case was lodged by the petitioners' side.

5. Though, there is some delay in filing of the complaint petition explanation thereof is in the complaint petition itself. Moreover the aforesaid delay cannot be a ground to quash the criminal proceeding nor the probable defence of the petitioners i.e. the counter case can be considered for quashment of the impugned order. Next submission of the petitioners is that no offence under Sections 387 or 379 of the Indian Penal Code at all made out at bare perusal of the complaint petition.

6. The petitioners are at liberty to raise the aforesaid issue at the stage of framing of the charge and the learned court below shall pass a reasoned order on such prayer being made.

7. Since criminal offence is disclosed in the complaint petition as well as for the reason that this Court does not



find any merit in the grounds aforesaid, the impugned order requires no interference and, accordingly, this application stands dismissed.

(Birendra Kumar, J.)

Kundan

AFR/NAFR	
CAV DATE	
Uploading Date	19.01.2017
Transmission Date	19.01.2017

