

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.36015 of 2013

Arising Out of PS.Case No. -1984 Year- 2009 Thana -EAST CHAMPARAN COMPLAINT
District- EASTCHAMPARAN(MOTIHARI)

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1. Lal Babu Prasad S/O Sheo Chandra Prasad Resident Of Village Dhekha Bishunpur, P.S- Pipra Kothi, District- East Champaran.
 2. Sheo Chandra Prasad S/O Dasai Bhagat Resident Of Village Dhekha Bishunpur, P.S- Pipra Kothi, District- East Champaran.
 3. Dulari Devi W/O Sheo Chandra Prasad Resident Of Village Dhekha Bishunpur, P.S- Pipra Kothi, District- East Champaran.
 4. Pappu Kumar S/O Sheo Chandra Prasad Resident Of Village Dhekha Bishunpur, P.S- Pipra Kothi, District- East Champaran.
 5. Heera Lal Prasad S/O Dasai Bhagat Resident Of Village Dhekha Bishunpur, P.S- Pipra Kothi, District- East Champaran.
 6. Santosh Kumar S/O Heera Lal Prasad Resident Of Village Dhekha Bishunpur, P.S- Pipra Kothi, District- East Champaran.
 7. Bira Lal Prasad S/O Dasai Bhagat Resident Of Village Dhekha Bishunpur, P.S- Pipra Kothi, District- East Champaran.
 8. Hari Narayan Prasad S/O Dasrath Bhagat Resident Of Village Machha, P.S- Motihari, Muffasil, District- East Champaran.
 9. Meena Devi W/O Prabhu Prasad And D/O Sheo Chandra Prasad Resident Of Village Machha, P.S- Motihari, Muffasil, District- East Champaran.
 10. Prabhu Prasad S/O Ramasray Prasad Resident Of Village Machha, P.S- Motihari, Muffasil, District- East Champaran.
 11. Sushila Devi W/O Manoj Prasad Resident Of Village- Chakradhe, P.S- Pipra Kothi, District-East Champaran.
 12. Manoj Prasad S/O Satya Narayan Prasad Resident Of Village- Chakradhe, P.S- Pipra Kothi, District-East Champaran.
 13. Dhyan Bhagat S/O Bhikham Bhagat Resident Of Villaeg- Balochak, P.S- Chakia, District- East Champaran.
 14. Manoj Prasad S/O Dhyan Bhagat Resident Of Villaeg- Balochak, P.S- Chakia, District- East Champaran.

.... Petitioner/s

Versus

1. The State Of Bihar
2. Rinku Devi W/O Lal Babu Prasad And D/O Bhagwan Bhagat Resident Of Village Dhekha Bishunpur, P.S- Pipra, Kothi, District-East Champaran At Present Resident Of Village- Balochak, P.S- Chakia, District- East Champaran.

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Sunil Kumar No.III

For the Opposite Party/s : Mr. Shailendra Kr. Singh (APP)

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CORAM: HONOURABLE MR. JUSTICE ADITYA KUMAR TRIVEDI
ORAL ORDER

5 13-01-2017

Heard learned counsel for the petitioner, learned APP

along with learned counsel for the O.P. No.2.



2. Unfortunately, on account of marital discord, instant petition has been filed which happens to be against an order of cognizance dated 30.10.2010 passed by SDJM, Motihari Sadar, East Champaran in Complaint Case No. 1984/09 whereby and whereunder petitioners have been summoned to face trial for an offence punishable under Sections 498A, 323/34 of the IPC.

3. This case happens to be further unfortunate on the score that the Court after staying further proceeding had given sufficient opportunity to the respective parties to join their hands and for that, the matter was referred to the High Court Mediation Centre but due to adamancy of the respective parties, the matter could not be settled down.

4. From the complaint petition, it is evident that altogether thirteen accused persons have been named which includes not only the husband, father-in-law, mother-in-law, brother-in-law rather kith and kin and virtually, the intention of the complainant is to drag all the persons connected with the husband without considering the fact that whether they could have any access in their marital dispute, and that happens to be reason behind giving their presence omnibus in nature. Moreover, manner whereunder they have been dragged suggests malicious prosecution.

5. The Hon'ble Apex Court, in the case of ***Ram Saran***



Varshney v. State of U.P. reported in **2016 Cr.L.J. 1251** has deprecated the events whereunder whole family members, kith and kin are being implicated in routine manner quashed the proceeding, however, in *Taramani Prakash v. State of Madhya Pradesh* as reported in **2015 Cr.L.J 2031**, has reasoned while considering plea of husband, father-in-law as well as mother-in-law directing to face trial whereunder allegation having levelled against them to be adjudged.

6. That being so, the order impugned relating to petitioners no. 4 to 14 is, hereby, quashed.

7. So far petitioners no. 1, 2 and 3 are concerned, they are husband, father-in-law and mother-in-law and on account thereof, considering the nature of allegations having attributed against them requires proper scrutiny during course of trial.

8. In the aforesaid background, the instant petition is found non maintainable relating to petitioners no. 1, 2 and 3 whereupon, the same is dismissed.

9. The stay so granted vide order dated 26.08.2013 is, hereby recalled.

(Aditya Kumar Trivedi, J)

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