

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.45891 of 2013

Arising Out of PS.Case No. -null Year- null Thana -null District- VAISHALI(HAJIPUR)

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1. Vijay Singh son of Late Chalitra Singh
 2. Usha Devi wife of Vijay Singh
 3. Lekhraj Singh @ Lekh Raj son of Vijay Singh
 4. Bindu Devi wife of Lekhraj Singh
 5. Suman Singh son of Vijay Singh

All are resident of village/Mohalla- Lohanipur, P.S.-Kadamkuan, District- Patna

6. Ranjita Devi wfe of Pankaj Singh, daughter of Vijay Singh, resident of village- Pakauli, P.S.- Bidupur, District- Vaishali

.... Petitioner/s

Versus

1. The State of Bihar
2. Ranjit Singh son of Late Harinandan Singh, resident of village- Pakauli, P.S.- Bidupur, District- Vaishali

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Dileep Kumar Jha, Advocate
: Mr. Rana Pratap Singh, Advocate
For the Opposite Party No.2 : Mr. Manish Chandra, Advocate
For the State : Mr. Jharkhandi Upadhyay, APP

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CORAM: HONOURABLE MR. JUSTICE ASHWANI KUMAR SINGH
ORAL JUDGMENT
Date: 11-08-2017

Heard learned counsel for the petitioners and learned counsel for the complainant- opposite party no.2.

2. The petitioners in the present application filed under Section 482 of the Code of Criminal Procedure (for short 'the CrPC')



seek quashing of the order dated 23.08.2012 passed by the learned Chief Judicial Magistrate, Hajipur, Vaishali in connection with Complaint Case No.139(C) of 2012 by which they have been summoned to face trial for the offences punishable under Sections 147, 323, 504 and 379 of the Indian Penal Code.

3. The short facts of the case are that the complainant Ranjit Singh filed a complaint on 16.01.2012 before the learned Chief Judicial Magistrate, Hajipur at Vaishali alleging therein that on 11.02.2012, at 9 p.m., while he was taking meal in his house with family members, all on a sudden, the accused persons came and expressed their desire to meet with his son Pankaj Singh and his wife Ranjita Devi. They conversed with Pankaj Singh for some time. Thereafter, they all being variously armed, abused and assaulted him and, when he protested, the accused Vijay Singh asked for key of the Godrej Almirah of Geeta Devi. When Geeta Devi refused, the accused Vijay Singh assaulted with Chura upon her, as a result, she sustained injury on her neck. It is further alleged that he snatched the key and after opening the Godrej Almirah took away Rs.45,000/- from it and handed over the same to accused Usha Devi. Thereafter, the accused Ranjita Devi snatched the golden chain worth Rs.30,000/- from the neck of the complainant and handed over the same to her brother Lekhraj Singh, which was handed over by Lekhraj Singh to the



accused Bindu Devi. It has further been alleged that the accused Suman Singh, being armed with pistol, pointed it upon the complainant and uttered that if he dared to move, the whole family would be killed. Thereafter, he took away Rs.3000/- from the pocket of the shirt of the complainant. It is alleged that while leaving the place, they threatened the complainant not to institute any case. After the accused persons went away, the complainant took his wife Geeta Devi to a Government hospital at Hajipur, but since no doctor was available, he took her to a private clinic. Thereafter, he went to the police station, but the police refused to register FIR. Hence, a complaint was instituted in the court.

4. The statement of the complainant was recorded on oath. Further, in support of the complaint, statements of three witnesses, namely, Geeta Devi, Shankar Rai and Ravindra Singh were recorded during enquiry conducted under Section 202 of the CrPC. After holding the enquiry, the impugned order dated 23.08.2012 was passed in exercise of powers conferred under Section 204 of the CrPC whereby the petitioners have been summoned to face trial. The aforesaid order dated 23.08.2012 is under challenge in the present application.

5. It is submitted by the learned counsel for the petitioners that the entire complaint case is false, concocted and fabricated. He



has submitted that the complainant has deliberately suppressed his relationship with the accused persons. He has submitted that petitioner no.6 Ranjita Devi is none else but daughter-in-law of the complainant. The petitioner no.1 Vijay Singh and petitioner no.2 Usha Devi are parents of said Ranjita Devi whereas petitioners no.3 and 5 are her brothers and petitioner no.4 Bindu Devi is wife of petitioner no.3 Lekhraj Singh. He has submitted that the accused Ranjita Devi was married to the son of the complainant on 03.12.2003 as per Hindu rites. When she was being subjected to cruelty, she instituted a complaint, vide Complaint Case No.3032(c) of 2005 under Section 498A of the CrPC in the court of Chief Judicial Magistrate, Patna. The said case was subsequently compromised between the parties. However, just in order to humiliate and harass the petitioners, the complainant lodged a complaint case in the year 2009 in the court of Chief Judicial Magistrate, Hajipur, vide Complaint Case No.2161 of 2009 against the petitioner no.1. Vijay Singh and petitioner no.5 Suman Singh, which was referred to the police under Section 156(3) of the CrPC for investigation pursuant to which Ganga Bridge Case No.282 of 2009 was instituted under Sections 341, 326 and 307/34 of the IPC and 27 of the Arms Act on 20.07.2009 and investigation was taken up by the police. However, on completion of investigation, the police found the case to be false and submitted final report, which was



accepted by the court. He has submitted that as the in-laws and husband had started subjecting Ranjita Devi to cruelty again after entering into compromise, she had filed another complaint, vide Complaint Case No.530(C) of 2010 in the court of Chief Judicial Magistrate, Patna. He has submitted that falsity of the case would be apparent from the fact that in the complaint petition the complainant has alleged that accused Ranjita Devi had snatched golden chain from the neck of the complainant, but when he was examined on oath, he has stated that it was accused Lekhraj Singh, who had snatched the golden chain from his neck.

6. Opposing the prayer made in the present application, learned counsel for the complainant- opposite party no.2 has submitted that the defence taken by the petitioners is of no consequence in view of the fact that the witnesses examined during enquiry have fully supported the allegations made in the complaint. He has submitted that at the stage of cognizance the court has only to see whether prima facie case is made out or not. He has contended that in view of the allegations made in the complaint, which has duly been supported by the complainant and the witnesses during enquiry, the court has committed no wrong in summoning the petitioners to face trial. He submitted that so far as the complaint instituted by the accused Ranjita Devi against the complainant and his other family



members is concerned, the same has already been quashed by this Court, vide order passed in Cr. Misc. No.34493 of 2012.

7. I have heard learned counsel for the petitioners, learned counsel for the complainant- opposite party no.2 and perused the record.

8. I find substance in the argument of the learned counsel for the petitioners. It has rightly been pointed out that in the complaint petition, the complainant has alleged that it was Ranjita Devi, who had snatched the golden chain from the person of the complainant, but when the complainant was examined on solemn affirmation, he has stated that it was the accused Lekhraj Singh, who snatched the golden chain from his person. Learned counsel for the petitioners is also correct in his submission that there was a conscious effort on the part of the complainant to suppress his relationship with the accused persons. The suppression of relationship is also with a design. Had the same been disclosed, the learned Magistrate would have applied his mind in a different manner.

9. That apart, it is also not disputed by the complainant that prior to the institution of the complaint case, the complainant had instituted another complaint case against the petitioners Vijay Singh and Suman Singh, which was referred to the police for investigation and pursuant to the investigation the allegations made therein were



found to be false. It is also not disputed that prior to the institution of the present complaint, the accused Ranjita Devi had instituted a complaint against the complainant.

10. In the background of the facts noted above, if I look to the allegations made in the complaint, it appears to be highly improbable that the father, mother, brother and sister-in-law of the accused Ranjita Devi, who was married to the son of the complainant would have jointly visited the house of the complainant in order to abuse and assault him and to take away some property from his house. It is also highly improbable that the petitioners, who are residents of Patna, would have visited the native village of the complainant at Pakauli in the District of Hajipur in order to commit the offence, as alleged.

11. In my considered opinion, the entire allegations made in the complaint are absurd and inherently improbable. The entire criminal proceeding appears to be maliciously instituted with an ulterior motive for wreaking vengeance on the accused persons and with a view to spite them due to private and personal grudge.

12. In that view of the matter, considering the ambit and scope of Section 482 of the CrPC, in the light of the ratio laid down in **State of Haryana and Others vs. Bhajanlal and Others** reported in **1992 supp (1) SCC 335**, the impugned order dated 23.08.2012 passed



in Complaint Case No.139(C) of 2012, is set aside.

13. The application stands allowed.

(Ashwani Kumar Singh, J)

Md.S./-

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