

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.38914 of 2013

Arising Out of PS.Case No. -2 Year- 2010 Thana -AGIAUN BAZAR District- BHOJPUR

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1. Mithilesha Devi Sri Ram Jee Singh Resident Of Village Kataria, P.S. Agiaon Bazar, P.O. Kataria, District Bhojpur Ara.

.... Petitioner

Versus

1. The State Of Bihar.
2. Shashi Kant Singh, Son of Harendra Singh Resident Of Vilalge Kataria, P.S. Agiaon Bazar, District Bhojpur, Ara.

.... Opposite Parties

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Appearance :

For the Petitioner/s : Mr. Rajiva Ranjan

For the Opposite Party/s : Mr. Indra Kr.Singh (App)

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CORAM: HONOURABLE MR. JUSTICE SANJAY KUMAR
ORAL ORDER

5 25-01-2017 Heard the parties.

The petitioner has filed this application for quashing the order dated 16.07.2013 passed by Sri Punit Malviya, Judicial Magistrate, 1st Class, Ara, Bhojpur in Agian Bazar P.S. Case No. 02 of 2010 whereunder discharge petition of this petitioner was rejected.

The above Agiaon Bazar P.S. Case No. 02 of 2010 was registered on the basis of letter addressed to Chief Minister. It has been alleged that this petitioner had demanded Rs. 1000/- for giving marriage certificate to the sister of the informant.

Learned counsel for the petitioner submitted that the petitioner is a lady aged about 65 years and she was Mukhiya of



Gram Panchayat, Kataria, on the relevant. She never demanded any money from anybody for registration of marriage and giving certificate. The present case has been lodged on the basis of false report on account of enmity and local politics. The learned Judicial Magistrate without looking into the F.I.R. took cognizance of offence under Section 385 I.P.C. There is absolutely no ingredient of committing extortion by putting any person in fear of injury and so, no offence under Section 385 I.P.C. is made out.

Learned APP for the State opposed the application.

On perusal of F.I.R., I find that the informant gave an information to the S.D.O. to this effect that this petitioner refused to provide marriage registration certificate as an amount of Rs. 1,000/- was not given to the petitioner. Subsequently, the informant gave a letter to the Chief Minister stating therein that this petitioner had demanded Rs. 1000/- for giving marriage registration certificate. He had recorded the conversation of demand of money by this petitioner in his mobile. The said application was sent to the District Magistrate, who forwarded the same to the S.D.O. on the basis of which the present case was registered. The contention of the learned counsel is that no offence under Section 385 I.P.C. is made out and on this count



he has prayed to quash the impugned order. The allegation of demanding money has to be examined at the time of trial. The petitioner will have liberty before the court below to raise his grievance as to whether offence under Section 385 I.P.C. is made out or not.

Keeping in view of the fact that there were sufficient materials on record to proceed with the case, the Court is of the opinion that the learned Judicial Magistrate has rightly taken cognizance of offence. I do not find any merit in the petition. Accordingly, this petition stands rejected.

However, the petitioner is at liberty to raise his grievance before the court below at proper stage, which shall be considered on merit without being prejudiced by this order.

(Sanjay Kumar, J)

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