

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.5572 of 2014

Arising Out of PS.Case No. -225 Year- 2011 Thana -FATUHA District- PATNA

=====

Vinod Singh Son Of Srinath Singh Resident Of Village-Narma, P.O.+P.S.-
Fathua, District-Patna

.... Petitioner/s

Versus

1. The State Of Bihar
2. Rita Devi Wife Of Amrendra Pandey Resident Of Village-Narma,
P.O.+P.S.-Fathua, District-Patna

.... Opposite Party/s

=====

Appearance :

For the Petitioner/s : Mr. Nikunj Shekhar, Advocate

For the Opposite Party/s : Mr. Tapeswar Sharma, (App)

=====

CORAM: HONOURABLE MR. JUSTICE ARUN KUMAR
ORAL ORDER

7 18-07-2017 The petitioner challenges the order dated 20.12.2011

passed by learned S.D.J.M., Patna City in Fatuha P.S. Case No.

225 of 2011, whereby he has taken cognizance of offence under

Section 504 of the I.P.C.

The prosecution case, in brief, is as per FIR dated
24.05.2011 lodged by Rita Devi under Section 147, 448, 341, 379,
334, 323 and 504 of the I.P.C. is that the accused persons along
with some strangers came to her house and enquired about her
husband. Ashwani Kumar, one of the accused slapped her
thereafter, snatched her golden chain, others also committed theft
and taken away suit case from her house. Ashwani Kumar further
outraged her modesty and he also committed theft of Rs. 10,000/-



(ten thousand).

Police after investigation, finding no involvement of Ashwani Kumar not submitted chargesheet against him but the police submitted chargesheet against other accused persons including the present petitioner under Section 504 of the I.P.C. and rest other allegations are found false.

Learned counsel for the petitioner submits that the husband of the present informant is an accused in a murder case of brother of Ashwani Kumar, who is the cousin of the petitioner for which the Fatuha P.S. Case No. 41 of 2008 is pending in the court. Further, he submits that in complaint no case under Section 504 of the I.P.C. is made out against the petitioner.

Learned Additional Public Prosecutor submits that in the case diary only evidence is that both sides abused each other.

Having considered rival submissions of both sides and on perusal of material on record the court is of the view that no prima facie case under Section 504 of the I.P.C. is made out. The informant is on inimical terms with the petitioner and there is no specific allegation in the written information, what specific words were used while abusing. There is general allegation of doing insult but the act of insult must be intentional of such nature causing provocation to any person which cause him to break the



public peace or to commit any other offence.

However, the evidence collected during investigation does not show in specific term that this petitioner abused informant or others, therefore, the entire allegation on the face of it even taken as true no case under Section 504 of the I.P.C. is made out against the petitioner.

So the order taking cognizance dated 24.05.2011 and 20.12.2011 in Fatuha P.S. Case No. 225 of 2011 with respect to petitioner Vinod Singh is set aside.

(Arun Kumar, J)

khushbu/-

U		T	
---	--	---	--

