

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.42643 of 2011

Arising Out of PS.Case No. -0 Year- null Thana -null District- NAWADA

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1. Hira Sao S/O Late Sonu Sao R/O Nawagarhi, Near Jain Mandir, P.S. - Kotwali, District - Gaya.
 2. Raj Kumar Verma S/O Hira Sao R/O Nawagarhi, Near Jain Mandir, P.S. - Kotwali, District - Gaya.
 3. Jamahir @ Jawahar S/O Late Sonu Sao R/O Nawagarhi, Near Jain Mandir, P.S. - Kotwali, District - Gaya.
 4. Kailash Sao S/O Late Jagesar Sao R/O Tilha Dharamshala, P.S. - Kotwali, District - Gaya.
 5. Shiv Kumar Verma S/O Late Laljee Verma R/O Manpur Adda, Buniadpur Road, P.S. - Manpur, District - Gaya.

.... Petitioner/s

Versus

1. The State Of Bihar
2. Chandan Kumar Verma S/O Sri Kamlesh Prasad R/O Manpur Adda, Buniadpur Road, P.S. - Manpur, District - Gaya, At Present R/O Hospital Road Nawada In Front Of Devi Mandir, P.S. & District - Nawada.

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Ravindra Kumar Singh, Adv.
For the State : Mr. J. Upadhyay, APP.

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CORAM: HONOURABLE MR. JUSTICE SANJAY PRIYA

ORAL JUDGMENT

Date: 06-10-2017

Heard learned counsel for the petitioners and learned counsel appearing for the State.

This petition has been filed for quashing the order dated 12-10-2011 passed by Sri Jeevan Lal, learned Judicial Magistrate-Ist Class, Nawada in Complaint Case No. C 1328/09/1146/11 by which the learned Magistrate has found prima facie case against the petitioners for the offence under Sections-147, 323, 379 of the Indian Penal Code.

It has been submitted on behalf of the petitioners that prior to lodging of this case, the daughter of petitioner No. 1 Renu Kumari



@ Soni filed a complaint case in the court of learned Chief Judicial Magistrate, Gaya on 08-11-2009 vide Complaint Case No. 1923 of 2009 alleging demand of dowry and subjecting her to cruelty by the accused persons. The present case has been filed by the complainant when notice was issued in that case against the accused persons. The instant case is a counter blast just to harass these petitioners. The petitioners are father-in-law, brother-in-law and other family members of the complainant.

The complainant lodged complaint alleging therein that complainant made request for Bidagiri of his wife, then these petitioners refused. The complainant thereafter filed Matrimonial case in the court of Principal Judge, Family Court Nawada bearing Matrimonial Suit No. 127 of 2009. It is also alleged that after issuance of notice, the in laws of the complainant called him to the house of one Shiv Kumar Verma for negotiation. The complainant, his father and other family members proceeded for Londh and on the date of occurrence, all these petitioners assaulted them and snatched the belongings.

The counsel for the petitioners pointed out S.A. of the complainant vide Annexure-2 wherein it is stated that some altercation has only taken place between the parties. Three witnesses were also examined during enquiry. All the witnesses have given different versions about the alleged occurrence.



From the impugned order, it appears that the court below has without appreciating the SA of the complainant and statement of three witnesses recorded during inquiry in mechanical manner, found prima facie case against these petitioners for offence under Sections- 147, 323, 379 of the Indian Penal Code.

Therefore, the impugned order passed by the court below is not in accordance with law.

Accordingly, the impugned order dated 12-10-2011 passed by Sri Jeevan Lal, learned Judicial Magistrate-Ist Class, Nawada in Complaint Case No. C 1328/09/1146/11 along with entire proceeding against the petitioners is quashed.

This Cr. Misc. Application is, therefore, allowed.

(Sanjay Priya, J)

A.K.V./-

AFR/NAFR	NAFR
CAV DATE	
Uploading Date	13-10-2017
Transmission Date	13-10-2017

