

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.17463 of 2014

Arising Out of PS.Case No. -46 Year- 2011 Thana -PATRAKARNAGAR District- PATNA

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1. Suyash Kumar Son of Sri Prasidh Ram
2. Miss Subham Kumari D/o Sri Prasidh Ram Both Resident at Flat No. 201,
Bhashkar Enclave Apartment, Mohalla - Dwarikapuri, P.S. - Patrakar Nagar,
District - Patna

.... Petitioners

Versus

1. The State of Bihar
2. Smt. Radha Devi Wife of Sri Krishna Ram Resident of R.D. Tower of Mohalla -
New Punaichak, Police Station - Shashtri Nagar, District/Town - Patna

.... Opposite Parties

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Appearance :

For the Petitioners : Mr. Pramod Kumar, Advocate
For the Opposite Parties : Mr. Ranvijay Singh, Advocate
For the State : Mr. Ram Naresh Rai, A.P.P.

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CORAM: HONOURABLE MR. JUSTICE SANJAY PRIYA

ORAL JUDGMENT

Date: 08-09-2017

This application under Section 482 of the Code of Criminal Procedure has been filed for quashing the order dated 25.7.2011 passed by the C.J.M., Patna, in Patrakar Nagar P.S. Case No.46 of 2011by which the court below has after submission of Final Form showing them not sent up took cognizance against these petitioners for the offences under Sections 406/420 of the Indian Penal Code.

2. It is submitted by learned counsel for the petitioners that these petitioners are son and daughter of Anita Devi. Mother of the



petitioners had filed quashing application in this Court vide Cr. Misc. No.36035 of 2011 and the order of cognizance along with entire criminal prosecution against her had been quashed by this Hon'ble Court. The aforesaid order was challenged before the Hon'ble Supreme Court in S.L.P. (Cri) No.3232 of 2015 which was dismissed by order dated 27.4.2015 (Annexure-2 to the supplementary affidavit filed today). Learned counsel further submits that there is no specific allegation against these petitioners in the entire complaint petition, which was sent to the police station under Section 156(3) of the Cr.P.C.

3. The complainant is own sister of Anita Devi (accused no.2). These petitioners are son and daughter of Anita Devi. The complainant has alleged in the complaint that accused no.1 Prasad Ram, husband of her own sister Anita Devi was an employee of State Bank of India in Dhanarua Branch. The informant made request with Prasad Ram to arrange a locker in the Bank for keeping the ornaments. The accused nos.1 and 2 persuaded the complainant to keep those ornaments in Almirah in their room. The complainant kept the ornaments in Almirah in their house on their persuasion. The petitioners after some time filed case before the police that those



ornaments have been stolen.

4. It is further alleged in the complaint petition that these petitioners were also involved in conspiracy with their parents in misappropriating the jewelleryes and ornaments of the complainant.

5. The main allegation levelled against the petitioners is in paragraph-11 of the complaint, wherein, it is alleged that these petitioners were also in conspiracy with the parents in misappropriating the jewelleryes and ornaments of the complainant. As such, general and omnibus allegation has been levelled against the petitioners.

6. The court below in mechanical manner after submission of charge sheet, took cognizance against these petitioners along with other accused persons.

7. Criminal prosecution against accused no.1 Anita Devi mother of the petitioners has already been quashed by this Court vide Cr. Misc. No.36035 of 2011.

8. After looking into the allegation in the complaint as well as material in the case diary, this Court is of the view, that the court below, without proper application of mind, in mechanical manner, on the basis of charge sheet, took cognizance against these petitioners



along with other accused persons.

9. In view of such, impugned order dated 25.7.2011 passed by the C.J.M., Patna, in Patrakar Nagar P.S. Case No.46 of 2011 along with entire criminal proceeding against these petitioners is quashed.

10. This application is allowed.

(Sanjay Priya, J)

N.H./-

AFR/NAFR	NAFR
CAV DATE	N/A
Uploading Date	23-09-2017
Transmission Date	23-09-2017

