

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.27161 of 2014

Arising Out of PS.Case No. -955 Year- 2013 Thana -DARBHANGA COMPLAINT CASE District-
DARBHANGA

- =====
1. Nuzhat Fatema D/o Naseem Ahmad Shakeel
 2. Naseem Ahmad Shakeel S/o Md. Shakeel
 3. Sarwat Naseem W/o Naseem Ahmad Shakeel
 4. Md. Ali Shakeel S/o Naseem Ahmad Shakeel
 5. Talat Fatema D/o Naseem Ahmad Shakeel

All Resident of Village Sidhauili, Police Station Ashok Paper Mills, District Darbhanga. At present resident of Teacher's Colony Khamgaon, Taluka Khangaon, District Baldawara, Maharashtra.

.... Petitioner/s

Versus

1. The State of Bihar.
2. Md. Sabir, S/o Md. Zubair, Resident of Village Sidhauili, Police Station Ashok Paper Mills, District Darbhanga.

.... Opposite Party/s

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Appearance :

For the Petitioner/s :

For the Opposite Party/s :

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CORAM: HONOURABLE MR. JUSTICE ARUN KUMAR

ORAL JUDGMENT

Date: 08-09-2017

Heard learned counsel for the petitioners and learned counsel for the State as well as learned counsel for the O.P. No. 2.

2. Petitioners are accused in Complaint Case No. 955 of 2013. They seek quashing of cognizance order dated 22.07.2013 passed by the learned Judicial Magistrate, 1st Class, Darbhanga as well as summoning order issued thereafter directing them to appear and face trial.

3. Short fact of the case is that complainant sought his



wife, petitioner no. 1, at Hajma Chauraha, Laheriasarai and asked her to come back to matrimonial home but wordy duel followed between complainant, his wife and other accused persons, they started abusing and assaulting him, torn off his clothes and his wife committed theft of Rs. 1700/- from his pocket.

4. Learned counsel for the petitioners submits that Nuzhat Fatema is the wife of the complainant whereas rest other petitioners are father-in-law, mother-in-law, brother-in-law and sister-in-law of the complainant and all reside at Khangaon in Maharastra where complainant's father-in-law is a teacher. In fact, this frivolous case was filed by the husband against his wife and in-laws in order to put pressure to withdraw the case filed by Nuzhat Fatema against her husband under the Protection of Women from Domestic Violence Act thereafter the present complaint case has been filed. He further submits that several frivolous complaints were filed by the husband. Besides being a malicious prosecution, the allegation also appears absurd alleging that wife assaulted her husband at a public place and committed theft by taking away cash from his pocket. Petitioner no. 1 Nuzhat Fatema had claimed maintenance and other reliefs under the Protection of Women from Domestic Violence Act that is the reason for filing false case by the complainant.

5. Contrary to that, learned counsel for the O.P. No. 2



submits that there is no any illegality in the cognizance order and finding *prima facie* case, the court has taken cognizance against all accused persons.

6. Having considered the rival submissions and on perusal of record, nature of allegation and in the backdrop of the fact that matrimonial discord exists between the complainant and his wife, so petitioner no. 1, in order to wreck personal vengeance has filed the complaint. Prior to the present complaint, Nuzhat Fatema, petitioner no. 1, had filed a case under the Protection of Women from Domestic Violence Act seeking relief of maintenance and other protection from the court against her husband, the present complainant. So the Court finds this present case malicious in nature in order to wreck personal vengeance against his wife and her family members, the complainant filed this case. Hence, the entire criminal proceeding inclusive of the cognizance order dated 22.07.2013 passed in Complaint Case No. 955 of 2013 pending in the Court of Mr. A.Kunal, Judicial Magistrate, 1st Class, Darbhanga is hereby set aside. The application stands allowed.

(Arun Kumar, J)

Sujit/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	10.10.2017
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