

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.40048 of 2011

Arising Out of PS.Case No. -0 Year- null Thana -null District- NALANDA (BIHARSHARIFF)

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1. Baiju Verma, son of Dina Nath Mahto, resident of village-Digha, P.S.-Digha, District-Patna, &
 2. Bijay Kumar, son of late Ramkhelawan Mahto, resident of Mohalla-Guljarbagh, Dadar Mandi, P.S.-Alamgunj, District-Patna.

.... Petitioner/s

Versus

1. The State of Bihar
2. Chandeshwar Pd. Verma, son of late Raghvendra Verma, resident of village-Piparawa, P.S.-Naubatpur, District- Patna, at present Mohalla- Amber, P.S.-Biharsharif, District-Nalanda.

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Kumar Binod Bariar, Advocate

For the Opposite Party/s : Mr. Abhay Kumar, APP

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CORAM: HONOURABLE MR. JUSTICE SANJAY PRIYA

ORAL JUDGMENT

Date: 08-09-2017

1. This application under Section 482 of the Code of Criminal Procedure has been filed for quashing the order dated 17.12.2009 passed by the Judicial Magistrate, 1st class, Biharsharif, Nalanda, in Complaint Case No.1246-C of 2009 by which the learned Magistrate after holding enquiry has found *prima facie* case against the petitioners for the offence under Section 341, 379 Indian Penal Code.

2. It has been submitted by the counsel for the petitioners that this complaint has been filed by the father-in-law of Anju Devi, who has earlier filed Complaint Case No.3138 of 2006 at Patna against her husband, Binod Verma, and father-in-law, Chandeshwar Verma, (Complainant of this case) in which both these petitioners were described as witnesses. That complaint was filed for the offence under Section 498-A Indian Penal Code and that case is pending for trial after



cognizance.

3. Counsel for the petitioners has further submitted that Anju Devi has also filed a case against her husband under Section 125 Cr. P. C. for grant of maintenance vide Maintenance Case No. 181(M) of 2007. Just to put pressure upon these two petitioners to not support Anju Devi in Complaint Case No.3138-C of 2006, husband of Anju Devi had filed Complaint Case No.3060-C of 2007 against these petitioners and others, which was dismissed under Section 203 Cr. P. C., and, thereafter, the instant Complaint was filed by the father-in-law of Anju Devi, Chandeshwar Verma (Complainant of this case), with malafide motive to give pressure upon these two petitioners not to appear as a witness in the case bearing Complaint Case No.3138 of 2006 filed by Anju Devi against her husband and father-in-law.

4. Allegation in the instant complaint filed by Chandeshwar Verma, father-in-law of Anju Devi, is that on the date of occurrence accused/petitioner No.2 took out pistol from his waste and put on the temple of the Complainant and asked him to hand over the bag containing money. The Complainant out of fear handed over the bag to the accused/Petitioner No.1, who threatened him of dire consequence.

5. The Court below by the impugned order after holding enquiry under Section 202 Cr.P C. has found *prima facie* case against both these petitioners for the offence under Section(s) 341, 379 Indian Penal Code.



6. Keeping in view the fact that these two petitioners are witnesses in Complaint Case No.3138-C of 2006 filed by Anju Devi against her husband, Binod Verma, and father-in-law, Chandeshwar Verma, for the offence under Section 498-A Indian Penal Code and also the fact that husband of Anju Devi, namely, Binod Verma had earlier filed Complaint Case No.3060-C of 2007 against both these petitioners and other accused persons, which was dismissed under Section 203 Cr. P. C., and thereafter just to put pressure upon these petitioners present complaint has been filed, this Court is of the view that this criminal prosecution filed by the Complainant is manifestly attended with malafide and the proceeding is instituted maliciously with an ulterior motive for wrecking vengeance on the petitioners with a view to spite them due to private and personal grudge.

7. In view of such, the impugned order dated 17.12.2009 passed by the Judicial Magistrate, 1st class, Biharsharif, Nalanda, in Complaint Case No.1246-C of 2009 along with entire criminal proceeding against the petitioners is hereby quashed.

8. This application is, accordingly, allowed.

(Sanjay Priya, J)

J.Alam/-

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