

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.51485 of 2013

Arising Out of PS.Case No. -31 Year- 2013 Thana -MAHILA P.S. District- SASARAM (ROHTAS)

- =====
1. Dr. Antu Kumar S/O Awadh Narayan Ram R/O Of Village Sujanpur, P.S. Indrapuri (Dehri), District- Rohtas, Bihar
 2. Stayendra Prasad @ Satyendra Kumar @ Satyendra Prasad S/O Sri Niwas Ram R/O Of Village Bhikharidih, P.S. Nokha, District- Rohtas, Bihar

.... Petitioner/s

Versus

1. The State Of Bihar
2. Anita Kumari D/O Nathuni Ram R/O Paschim Patti, Durga Chauk, Ward No. 1, District- Rohtas

.... Opposite Party/s

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Appearance :

For the Petitioners : Mr.
For the State : Mr.
For the Opposite Party No.2 : Mr.

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CORAM: HONOURABLE MR. JUSTICE RAJENDRA KUMAR MISHRA
ORAL ORDER

5 23-06-2017 Heard learned counsel for the petitioners and learned A.P.P. for the State as well as learned counsel appearing for the O.P. No. 2.

This application, under Section 482 of the Code of Criminal Procedure, is directed against the order dated 31.10.2013 passed in Mahila P.S. Case No. 31 of 2013, whereby the court of the S.D.J.M., Dehri, Rohtas took the cognizance of the offence under Sections 376, 493, 506/34 IPC against the accused-petitioners. Learned counsel appearing on behalf of the petitioners submits that the petitioner no.2 is brother-in-law of the petitioner



no.1. From perusal of the written report of the informant/Opposite Party No.2, on the basis of which the present case is lodged, it would appear that the allegation against petitioner no. 1 is to develop physical relation with the informant- O.P. No. 2, giving assurance to perform the marriage but he refused to perform the marriage with informant O.P. No. 2. So far as the petitioner no.2 is concerned, the allegation against him is that he had gone to the house of the informant opposite party no.2 and had given threatening to her family members saying to perform the marriage of the petitioner no.1 elsewhere. As such, no case under Section 376 IPC is made out against the petitioner no. 2 but the court of the S.D.J.M., Dehri, Rohtas, on perusal of the materials, available in the case diary also, illegally took the cognizance of the offence under Section 376, 493, 546/34 IPC through the impugned order against the petitioner no. 2 and directed for issuance of summons to both the petitioners.

It is not in dispute that the cognizance taking court is only required to see at the time of taking the cognizance of the offence as to whether on the basis of the materials available in the case diary, the offence is made out or not. As such, I do not find any illegality in the impugned order amounting to abuse of the process of the court for interference with the same in an extraordinary



jurisdiction of this Court under Section 482 Cr.P.C.

Accordingly, this application stands dismissed.

However, the petitioners would be at liberty to raise their point, as raised herein, in trial court at the appropriate stage.

(Rajendra Kumar Mishra, J)

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