

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Writ Jurisdiction Case No.623 of 2017

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

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1. Rameshwar Pandey, son of Late Makhan Pandey,
 2. Kanhaiya Pandey, son of Sri Rameshwar Pandey, Both resident of Village- Kanail, P.S.- Rahika, District- Madhubani.

.... Petitioner/s

Versus

1. The State of Bihar Through Director General of Police, Bihar, Patna.
2. Superintendent of Police, Madhubani.
3. S.H.O., Rahika Police Station, District Madhubani.
4. Investigating Officer of Rahika, P.S. Case No. 157/2016, District- Madhubani.
5. Sushma Devi, daughter of Ravindra Kumar Sharma, resident of Village- Kanail, P.S.- Rahika, District- Madhubani.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Ajay Kumar Thakur, Advocate
For the Respondent/s : Mr. Harun Quareshi, AC to SC-1
For the Informant : Mr. Shailendra Kumar Jha, Advocate

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CORAM: HONOURABLE MR. JUSTICE BIRENDRA KUMAR

ORAL JUDGMENT

Date: 22-08-2017

The petitioners are accused in Rahika Police Station Case No.157 of 2016 registered for the offences under Sections 341/323/354(A)(B)/379/34 of the Indian Penal Code.

2. The writ application was filed for quashing of the F.I.R. of the aforesaid case.

3. During the pendency of this writ application the police submitted charge sheet against the petitioners for offences under Sections 323 and 504 Of the Indian Penal Code only. Accordingly, cognizance had been taken by order dated 29.05.2017 vide



Annexure-8 by the learned Court-below.

4. By filing I.A. No.1655 of 2017, the petitioner has prayed for amendment of the prayer by adding prayer for quashing the order dated 29.05.2017 passed in Rahika P.S. Case No.157 of 2016 by learned Additional Chief Judicial Magistrate-I, Madhubani, on the ground that offences under Section 323 and 504 of the Indian Penal Code are triable by a Gram Katchahari and the learned Court-below without canceling the jurisdiction of the Gram Katchahari has taken cognizance which is bad in law. Moreover, the parties have entered into a compromise. Therefore, continuance of the criminal prosecution would be an abuse of the process of law as the offences are compoundable.

5. Learned counsel for respondent No.5, who is informant of the case, submits that in fact the parties have entered into a compromise.

6. After hearing the parties and considering the fact that impugned order has been passed without cancelling the jurisdiction of the Gram Katchahari while taking cognizance in the case. Hence, the same is not sustainable in law for the reason that offences under Sections 323 and 504 of the Indian Penal Code are triable by a Gram Katchahari under the provisions of Section 106 of the Bihar Panchayat Raj Adhiniyam, 2006, and cognizance of such matter by a



Court of law is barred under the provisions of Section 113 of the said Act. Moreover, since the parties have entered into a compromise as the informant has given written information vide Annexure-2 to the Court-below, the continuance of the criminal prosecution is an abuse of the process of the Court.

7. Accordingly, the F.I.R. as well as entire criminal prosecution arising out of the impugned order and the aforesaid police case stands quashed and this writ application stands allowed.

(Birendra Kumar, J)

Mkr./-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	24.08.2017
Transmission Date	24.08.2017

