

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.53656 of 2013

Arising Out of PS.Case No. -2165 Year- 2003 Thana -COMPLAINT CASE District- ARRARIA

- =====
1. Deo Narayan Risideo Son Of Ganga Risideo Resident Of Village- Pararia, P.S.- Tarabari, District- Araria
 2. Ganga Risideo Son Of Late Chutaharu Risideo Resident Of Village- Pararia, P.S.- Tarabari, District- Araria
 3. Agalnia Devi Wife Of Ganga Risideo Resident Of Village- Pararia, P.S.- Tarabari, District- Araria
 4. Vibhisan Risideo Son Of Ganga Risideo Resident Of Village- Pararia, P.S.- Tarabari, District- Araria

.... Petitioner/s

Versus

1. The State Of Bihar
2. Bindeshwari Risideo Son Of Late Sukdeo Risideo Resident Of Village- Kowachar, P.S.- Simraha, District- Araria

.... Opposite Party/s

=====

Appearance :

For the Petitioner/s : Mr. Mukesh Kumar Rana

For the Opposite Party/s : Mr. Md. Ansural Haque (App)

=====

CORAM: HONOURABLE MR. JUSTICE ARVIND SRIVASTAVA
ORAL ORDER

3 26-04-2017

Heard learned counsel for the parties.

Petitioners, by means of this application under section 482 of the Code of Criminal Procedure, have invoked the inherent jurisdiction of this Court with prayer to quash the order dated 08.04.2004, passed by Shri P.K. Ratan, Judicial Magistrate, 1st Class, Araria, in Complaint Case No. C-2165 of 2003, whereby cognizance has been taken against the petitioners for the offences under section 498A of the Indian Penal Code and process has been issued.

The contention of the learned counsel for the



petitioner is that no offence against the petitioner is disclosed and the present prosecution has been instituted with mala fide intention for the purposes of harassment. Complainant died her natural death in the year 2006 in the house of her parents and her daughter is living with these petitioners. Prior to lodging of the present case, petitioner no. 2 filed Complaint Case No. C-2079 of 2003 against the present complainant and the present case has been filed in retaliation of the same.

Learned counsel appearing for the State opposes the application by contending that there are allegations against the petitioner and no ground for quashing the impugned order is made out.

From perusal of the material on record and looking into the facts of the case at this stage, it cannot be said that no offence is made out against the petitioners. All the submissions made at bar relates to the disputes question of fact, which cannot be adjudicated upon by this Court in exercise of power conferred under section 482 Cr. P.C. At this stage only prima facie case is to be seen in the light of the law laid down by Supreme Court in cases of R.P. Kapur Vs. State of Punjab, A.I.R. 1960 SC 866, State of Haryana Vs. Bhajan Lal, 1992 SCC (Cr.) 426, State of Bihar Vs. P.P. Sharma, 1992 SCC (Cr.) 192, Zandu



Pharmaceutical Works Ltd. Vs. Mohd. Saraful Haq and another (Para-10) 2005 SCC (Cr.) 283 and recently in A.R.C.I. Vs. Nimra Cerglass Technics (P) Ltd. (2016) 1 SCC 348. The submission made by the learned counsel for the petitioner call for adjudication on pure questions of fact which may be adequately gone into by the trial Court in this case. This Court does not deem it proper, and therefore cannot be persuaded to have a pre-trial before the actual trial begins. The disputed defence of the accused cannot be considered at this stage. Moreover, the petitioner has got a right of discharge through a proper application for the said purpose and he is free to take all the submissions in the said discharge application before the trial Court. The prayer for quashing the order impugned is refused.

The application accordingly stands dismissed. However, in case the petitioners appear and surrender before the Court below within a period of four weeks from today and pray for bail, the Court below may consider their prayer sympathetically taking into consideration their age.

(Arvind Srivastava, J)

Manish/-

U		T	
---	--	---	--

