

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.46264 of 2013

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1. Md. Kamaluddin S/O Late Mokimuddin Resident Of Bucher Khana, Khara Kuan, Tenant Of The House Of Lalan Hijara, P.S. Alamganj, District Patna.

2. Md. Monu @ Monu S/O Md. Kamaluddin Resident Of Bucher Khana, Khara Kuan, Tenant Of The House Of Lalan Hijara, P.S. Alamganj, District Patna.

3. Md. Munna @ Munna S/O Md. Lal Babu Resident Of Bucher Khana, Khara Kuan, Tenant Of The House Of Lalan Hijara, P.S. Alamganj, District Patna.

.... Petitioner/s

Versus

1. The State Of Bihar.

2. Md. Ekram S/O Late Md. Moin Resident Of Alia Furniture Shop, New Azimabad Colony Sandalpur, Nahar Road, P.O. Mahendru, P.S. Sultanganj, District Patna.

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Shyamal Prakash

For the Opposite Party/s : Mr. Amrendra Pd.(App)

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CORAM: HONOURABLE MR. JUSTICE RAJENDRA KUMAR MISHRA
ORAL ORDER

3 09-05-2017 This application under section 482 Cr.P.C. is directed against the order dated 26.09.2013 passed in Complaint Case No. 727 of 2013 whereunder the court of learned Judicial Magistrate 1st Class, Patna City summoned the accused-petitioner, on enquiry, under section 204 Cr.P.C. finding prima facie case under section 417, 323, 504 and 379 of Indian Penal Code.

The facts leading to this application is that O.P. No.2, Md. Ekram filed the Complaint Case No. 723 of 2013 with contention that accused-petitioner came at his furniture shop on



5.12.2013 for purchase of dressing table and T.V. trolley and a sum of Rs. 1500/- was paid as an advance against the total amount of Rs. 7,700/- with assurance that the remaining amount will be paid on 12.12.2012 at the time of delivery. On 12.12.2012, the accused petitioner came at the furniture shop of the O.P. No.2 and showed inability to pay the remaining amount of Rs. 6200/- saying that remaining amount will be paid soon. On assurance of the accused petitioners, the O.P. No.2 delivered the dressing table and T.V. trolley. But in spite of lapse of 15 days, the dues money was not paid by the petitioners then the O.P. No.2 sent a legal notice, denying to purchase of dressing table and T.V. trolley and also dues of Rs. 6200. On 16.06.2013 the petitioners came at the shop of the O.P. No.2 and made complaint about sending the legal notice regarding payment of Rs. 6200/-. In that course, hot talks were exchanged and the petitioners assaulted the O.P. No.2 with fists and slaps and also dashed him. The petitioner no.3 Md. Munna @ Munna snatched golden chain from the neck of O.P. No.2 and handed over the same to petitioner no.2 Md. Monu. At that time petitioner no.1 Md. Kamaluddin also took cash of Rs. 750/- to the pocket of the O.P. No.2.

After filing complaint by O.P. No.2 against petitioners the learned Judicial Magistrate 1st Class , on enquiry,



summoned the accused persons under section 204 Cr.P.C. finding prima facie case under section 417, 323, 404 and 379 of the Indian Penal Code.

Learned counsel appearing on behalf of the petitioners submits that in fact sister of O.P. No.2, namely, Soni Begum was married to Idu Mian and marriage of Ladli Begum, daughter of Idu Mian was performed to Md. Kalimuddin, son of petitioner no.1 and she used to reside at her parental house. On 12.12.2012 Md. Kalmuddin son of petitioner no.1 Md. Kalimuddin had gone to take his wife Ladli Begum but he was set on fire after pouring petrol by his wife Ladli Begum, mother-in-law Soni Begum and other family members. Anyhow, he rushed to Sadar hospital, Patna where his fard-beyan was recorded and later on he died. On the basis of Fard-beyan of Kalumuddin Sultanganj P.S. Case No. 191 of 2012 was instituted on 19.12.2012 under section 302/34 of the Indian Penal Code against Ladli Begum, wife, Ladla, sister-in-law, Nazni Begum and Soni Begum, mother-in-law of Kalmuddin and other in-law of Kalumuddin son of petitioner no.1 Kamaluddin only to put undue pressure, the O.P. No.2, who is brother-in-law of Idu Mian lodged the Complaint Case No.723 of 2013 in which Md. Idue Mian is also shown as witness no.3 in the complaint petition.



Learned counsel appearing on behalf of the No. 2 submits that the learned Magistrate has rightly summoned the accused petitioner through the impugned order finding prima facie case under sections 417, 327, 504 and 379 of the Indian Penal Code but conceded Sultanganj P.S. Case No. 191 of 2012 was instituted on 9.12.2012 under section 302 under section 302/34 of the Indian Penal Code on the basis of fard-beyan of Kamaluddin (deceased) son of petitioner no.1 against Ladli Begum, sister and Soni Begum 'Bhagani' of complainant O.P. No.2. As such, the present case of the complainant appears to be lodged in counter blast of Sultanganj P.S. Case No. 151 of 2012 only to put pressure against the petitioners.

In the result, this application is allowed. The order dated 26.9.2013 summoning the petitioner under section 204 Cr.P.C., on enquiry, finding prima facie case under section 302/34 in complaint case No. 723 of 2013 is hereby quashed.

(Rajendra Kumar Mishra, J)

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