

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.43019 of 2011

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

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1. Kiran Devi Late Anil Chaurasia R/O,Vill.-Icchtiya,P.S.-Giriyak,Dist.-Nalanda
 2. Kusum Devi W/O,Sato Chaurasiya R/O,Vill.-Icchtiya,P.S.-Giriyak,Dist.-Nalanda.
 3. Sato Prasad Chaurasiya Easo Prasad R/O,Vill.-Icchtiya,P.S.-Giriyak,Dist.-Nalanda
 4. Jyoti Kumari Sato Chaurasiya R/O,Vill.-Icchtiya,P.S.-Giriyak,Dist.-Nalanda
 5. Putus Chaurasia Ram Chandra Chaurasiya R/O,Vill.-Icchtiya,P.S.-Giriyak,Dist.-Nalanda
 6. Kamali Devi W/O,Putus Chaurasiya R/O,Vill.-Nalanda,P.S.-Nalanda ,Dist.-Nalanda

.... Petitioner/s

Versus

1. The State Of Bihar
2. Radha Devi Mahabir Prasad Chaurasiya R/O,Vill.-Belachhi,P.S.-Chandi,Dist.-Nalanda

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Rajeev Kumar, Advocate.
For the State : Mr. Binod Kumar, APP
For the O.P. No. 2 Mr. Shailendera Kumar Dwivedi, Adv.

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CORAM: HONOURABLE MR. JUSTICE SANJAY PRIYA

ORAL JUDGMENT

Date: 12-10-2017

1. Heard learned counsel for the petitioners and the State.

2. This application has been filed for quashing the order dated 31-07-2010 passed by Sri Rajesh Pandey, learned Judicial Magistrate-Ist Class, Hilsa, Nalanda in Complaint Case No. 388 C of 2010 by which, the learned Magistrate after holding inquiry u/S 202 Cr.P.C. has found prima facie against the petitioner for the offence under Sections-323, 380 of the IPC.



3. Counsel for the petitioners has submitted that complainant is mother-in-law of petitioner No. 1 Kiran Devi. The son of the complainant was married with petitioner No. 1. After death of son of the complainant, the petitioner No. 1 started living in her Naihar with her family members.

4. It is alleged in the complaint petition that on the date of occurrence, all these persons came and stayed in the night and in the morning, she did not find her daughter in law Kiran Devi and other accused persons. She also alleged that they have taken various articles as mentioned in the complaint.

5. At the time of hearing of this petition, certified copy of SA of the complainant was produced. From perusal of SA of complainant, it appears that she has levelled general and omnibus allegation against the petitioners. The petitioner No. 1 is daughter in law of the complainant whereas rest petitioners are family members of petitioner no. 1.

6. It has further been submitted that this case has been filed by the complainant out of grudge as son of the complainant has died and the complainant wanted to keep her daughter in law with her. It has further been submitted by the complainant that the occurrence has taken place on 27-04-2010 at night and the complaint



has been filed on 13-05-2010 after long delay.

6. From the impugned order it appears that the court below in the mechanical manner found prima facie case for the offence u/S-323, 380 of the Indian Penal Code against these petitioners and others named in the complaint. There is no discussion by the court below about the material found by him in SA of the complainant and statement of other witnesses.

7. Therefore, the impugned order dated 31-07-2010 passed by Sri Rajesh Pandey, learned Judicial Magistrate-Ist Class, Hilsa, Nalanda is not in accordance with law.

8. Accordingly, the impugned order dated 31-07-2010 along with entire criminal proceeding against the petitioner is quashed.

9.This Cr. Misc. Application is allowed.

(Sanjay Priya, J)

A.K.V./-

AFR/NAFR	NAFR
CAV DATE	
Uploading Date	17-10-2017
Transmission Date	17-10-2017

