

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.14348 of 2011

Arising Out of Complaint Case No. -1475 Year- 2010 Thana- Kuchila Distt.- BHABHUA
(KAIMUR)

- =====
1. Kalamu Dhobi, S/o Late Hanif Dhobi
 2. Jalima Khatoon, W/o Kalamu Dhobi
 3. Ishaque Dhobi, S/o Kalamu Dhobi
 4. Gira Dhobi, S/o Late Hanif Dhobi
 5. Rabuana Bibi, W/o Gira Dhobi
 6. Sogara Bibi, W/o Salamgir Dhobi
 7. Kudus Dhobi, S/o Salamgir Dhobi
 8. Bholu Dhobi, S/o Salamgir Dhobi
 9. Sakrula Dhobi, S/o Late Sugul Dhobi
 10. Jaibun Bibi, W/o Sakrula Dhobi
 11. Kamruddin Dhobi, S/o Sakrula Dhobi

All are R/o Village - Gara, P.S.- Kuchhila, District - Kaimur (Bhabhua)

.... Petitioners

Versus

1. The State of Bihar
2. Hasabun Bibi W/o Jhabu Dhobi R/o Village - Gara, P.S.- Kuchhila, District - Kaimur (Bhabhua)

.... Opposite Parties

=====

Appearance :

For the Petitioner/s : Mr. Manoj Kumar, Advocate

For the Opposite Party/s : Md. Sufiyan, APP

=====

CORAM: HONOURABLE MR. JUSTICE ASHWANI KUMAR SINGH

ORAL JUDGMENT

Date: 02-11-2017

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



2. Despite valid service of notice upon opposite party no.2, she has chosen not to contest the matter.

3. This application under Section 482 of the Code of Criminal Procedure (for short 'Cr.P.C.') has been filed for quashing the order dated 17.01.2011 passed in Complaint Case No.1475 of 2010 whereby the learned Chief Judicial Magistrate, Bhabhua (Kaimur) summoned the petitioners after taking cognizance of the offences punishable under Sections 323, 354 and 380 of the Indian Penal Code to face trial.

4. The case of the complainant is that on 20.11.2010 at about 7:00 p.m. when she was busy in cooking meal for her family, the accused persons entered into her house and assaulted her. The accused Jalima Khatoon, Rabuana Bibi and Sogara Bibi caught hold of her and inquired about her husband Jhabu Dhobi. They threatened her of dire consequences and dragged her to some distance. The accused Gira Dhobi outraged her modesty and the accused Jalima Khatoon and Kudus Dhobi took away two boxes from her house containing Rs.1,000/- in cash and certain other household articles.

5. The complainant was examined on solemn affirmation. Apart from the complainant, two witnesses were also examined in course of inquiry conducted under Section 202 of the



Cr.P.C. whereafter vide impugned order dated 17.01.2011, the petitioners were summoned to face trial.

6. It has been submitted by the learned counsel for the petitioners that earlier petitioner no.1 had filed a complaint petition vide Complaint Case No.842 of 2009 against the complainant, her husband and family members under Section 147, 148, 452, 323, 380, 341, 504, 354 of the Indian Penal Code and Section 27 of the Arms Act and, in retaliation to that, the instant complaint case was filed. He submitted that the witnesses of the present case are accused in the Complaint Case No.842 of 2009, which was filed by petitioner no.1 on 15.07.2009. He submitted that the petitioners and the complainant are neighbours. Their houses are adjacent to each other and they have resolved the dispute outside the court and have decided not to contest the cases. He submitted that looking at the nature of offence, this Court had earlier referred the matter to the Patna High Court Mediation Centre for mediation between the parties and the parties appeared before the learned Mediator and orally stated that they have settled all the disputes between themselves, but unfortunately written compromise could not be filed. He submitted that the petitioner no.1 is also not interested in prosecuting the opposite party no.2 or her family members in Complaint Case No.842 of 2009.



7. *Per contra*, learned counsel for the State submitted that the allegations made in the complaint do attract the ingredients of the offences alleged. He, however, admitted that when the matter was referred by this Court to the Mediation Centre, the learned Mediator has reported that the parties have orally claimed to have settled all dispute, but terms of formal settlement papers were neither presented nor executed between the parties on that day.

8. I have heard learned counsel for the petitioners and learned counsel for the State.

9. The complainant has chosen not to appear before the Court after appearing before the Patna High Court Mediation Centre on 15.10.2014 in Mediation Proceeding No.897 of 2014 and contest the matter.

10. In view of the nature of allegations made in the complaint and the fact that the petitioners and the complainant are neighbours as also that the complainant herself appeared before the Mediator and stated that she has resolved and settled all the disputes outside the Court with the petitioners, in the opinion of this Court, no useful purpose would be served by allowing the prosecution to continue in the present case or in Complaint Case No. 842 of 2009 pending before the court of jurisdictional Magistrate at Bhabhua, Kaimur.



11. In that view of the matter, the impugned order dated 17.01.2011 passed in Complaint Case No.1475 of 2010 and the entire criminal proceeding in the aforesaid complaint case are hereby quashed. Furthermore, in view of the undertaking given by the learned counsel for the petitioners, in case, Complaint Case No. 842 of 2009 filed in the court of Chief Judicial Magistrate, Kaimur at Bhabhua is still pending either before the learned Chief Judicial Magistrate or before any transferee court of Magistrate, the same shall also stand quashed.

12. The application stands allowed.

13. Let a copy of the order be communicated to the learned District and Sessions Judge and the learned Chief Judicial Magistrate, Kaimur at Bhabhua.

(Ashwani Kumar Singh, J.)

Sanjeet/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	07.11.2017
Transmission Date	07.11.2017

