

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.33037 of 2014

Arising Out of PS.Case No. -46 Year- 2014 Thana -PATNA COMPLAINT CASE District- PATNA

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1. Dhiraj Sarkar @ Dhiraj Chandra Sarkar .

2. Hiranmaya sarkar

Both sons of Late Jagdish Chandra Sarkar.

3. Veena Pani Sarkar .

4. Sabita Rani Sarkar .

5. Ranjana Sarkar @ Ranjana Agarwal

6. Ratna Rani Sarkar @ Ratna Dutta .

7. Bharati Sarkar .@ Bharati Rani Sarkar .

8. Anima Sarkar

Sl. Nos. 3 to 8 are the D/o Late Jagdish Chandra Sarkar

All resident of Mohalla -Chamdoria, P.S. -Patna City , District Patna.

.... Petitioner/s

Versus

1. The State of Bihar

2. Hemant Rai Saxena, S/o Late Mahtab Lal Saxena , resident of Mohalla -
Sirhighat Devan Mohalla, P.S. - Khajekalan District Patna .

.... Opposite Party/s

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Appearance :

For the Petitioner/s :

For the Opposite Party/s :

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CORAM: HONOURABLE MR. JUSTICE ARUN KUMAR

ORAL JUDGMENT

Date: 27-07-2017

Heard learned counsel for the parties.

2. This application, under Section 482 of the Cr.P.C., has been filed by the petitioners for quashing order dated 01.05.2013 passed by the learned S.D.J.M., Patna City in Complaint Case No. 46 of 2014, whereby he has taken cognizance of offence under Section 406, 420, 323, and 504 of the Indian Penal Code against all the accused petitioners and has issued summons to them to face trial.

3. Learned counsel appearing on behalf of the petitioners contends that the complainant is the brother-in-law of the petitioner



no. 1 and it is family dispute and predominantly of civil nature. He further submits that the alleged written agreement said to be signed by the four petitioners for taking loan, whether it is a genuine document or not, it can only be decided in a civil proceeding. Further submission is that in so-called agreement, four petitioners i.e., petitioner nos. 1 to 4, are alleged to be signatories on the said document as far as rest other are concerned, they are not party to it and there is absence of any allegation against them regarding taking loan, only bald statement is made alleging assault to the complainant by all the petitioners and it is not specifically stated that which accused committed theft of the gold chain.

4. Whereas learned counsel for the State submits that in paragraph-3 of the complaint, there is allegation of assaulting the complainant when he had went to their place for demanding his money.

5. Having considered rival submissions and on perusal of record, it is apparent that specific allegation of taking loan of Rs. 11,00,000/- is against only four petitioners i.e., petitioner Nos. 1 to 4, namely, Dhiraj Sarkar, Hiranmaya Sarkar, Veena Pani Sarkar and Sabita Rani Sarkar and not against rest of the petitioners i.e., petitioner nos. 5 to 8. The complainant has annexed copy of the agreement showing taking of loan by petitioner nos. 1 to 4, so *prima*



facie offence only against petitioner nos. 1 to 4 is made out. The defence of petitioners that agreement copy filed with the complaint case is forged document cannot be considered at this stage.

6. As far as rest of the petitioners are concerned, there is no allegation at all that they had taken loan from the complainant. The allegation of assault against the petitioner nos. 5 to 8 are mere bald statement having no any specific allegation of overt act.

7. Hence, for the aforesaid reason, cognizance order dated 01.05.2014 passed by the learned S.D.J.M., Patna City in Complaint Case No. 46 of 2014 with respect to the petitioner nos. 5 to 8 namely Ranjana Sarkar @ Ranjana Agrawal, Ratna Rani Sarkar @ Ratna Dutta, Bharati Sarkar @ Bharati Rani Sarkar and Anima Sarkar only is hereby set aside.

8. However, it is clarified that criminal proceeding will continue against the petitioner nos. 1 to 4, namely, Dhiraj Sarkar, Hiranmaya Sarkar, Veena Pani Sarkar and Sabita Rani Sarkar.

9. Accordingly, this application stands disposed of.

(Arun Kumar, J)

Sujit/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	30.08.2017
Transmission Date	30.08.2017

