

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.9340 of 2014

Arising Out of PS.Case No. -1356 Year- 2012 Thana -SAHARSA COMPLAINT CASE District-
SAHARSA

- =====
1. Krishnanand Khan, Son of Krityanand Khan
 2. Kumar Keshav Anand Son of Krishnanand Khan
 3. Munni Devi Wife of Krishnanand Khan
 4. Tusi Kumari D/O Krishnanand Khan
 5. Supriya Kumari @ Kumari Supriya D/O Krishnanand Khan
- All are resident of Village + P.S. Bangaon, Distt-Saharsa

.... Petitioner/s

Versus

1. The State of Bihar
2. Shiv Shankar Khan, Son of Sri Taranand Khan, resident of Village, P.S. Bangaon, District-Saharsa

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mrs. Monika, Advocate.

For the Opposite Party/s :

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CORAM: HONOURABLE MR. JUSTICE ARUN KUMAR

ORAL JUDGMENT

Date: 24-07-2017

Heard learned counsel for the parties.

2. Petitioners have filed this quashing application under Section 482 Cr.P.C. for setting aside order dated 12.11.2013 passed by the Judicial Magistrate, 1st Class, Saharsa in complaint case no. 1356 C of 2012 whereby cognizance of offence is taken under Sections 341, 379 and 504/34 of the Indian Penal Code.

3. The present complaint was filed by one Shiv Shankar Khan, making all the petitioners-accused, who are husband, wife, son



and two daughters, alleging therein that on 08.07.2012 at 7:00 P.M. while he reached near the village, after coming back from Sasural, all the accused persons intercepted him armed with deadly weapons and started assaulting with fist and slap and on orders of accused nos. 4 and 5, namely, Tusi Kumari and Supriya Kumari, his brother Kumar Keshav Anand put pistol on his person and Tusi Kumari and Supriya Kumari took out Rs. 15,000/-from his pocket.

4. Learned counsel appearing on behalf of the petitioners submits that Supriya Kumari (petitioner No. 5), daughter of the petitioner nos. 1 and 3, was a victim of attempt of rape and in that case one Raushan Kumar, son of the present complainant and another accused Sushant Kumar, both in a lonely place, while she was going, made an attempt to commit rape on her, she raised alarm, thereafter they could not succeed, for that offence, she lodged Bangaon P.S.Case No. 51 of 2012 dated 29.06.2012 registered under Sections 376, 511, 354/34 of the Indian Penal Code, the FIR clearly shows that one of the accused out of two, namely, Raushan Kumar was the son of Shiv Shankar Khan (present complainant) and the present complaint case was filed on 09.07.2012 by Shiv Shankar Khan, the father of Raushan Kumar, one of accused in Bangaon P.S.Case No. 51 of 2012. So this is a malicious prosecution launched by the father of the accused Raushan Kumar, who is said to have made



attempt of rape upon petitioner no. 5, hence filed false case in order to put pressure to them to withdraw the case and not to support it.

5. Learned A.P.P. submits that there is no illegality in the impugned order.

6. Having considered rival submissions and on perusal of record, it is apparent that against the son of the present complainant Shiv Shankar Khan, a police case was lodged more than a week ago by petitioner no. 5 Supriya Kumari and in the police case, allegation is that son of the complainant and his other associate made an attempt of rape. So in this backdrop of these facts, the present complaint appears to be malicious prosecution as such on that account, order taking cognizance dated 12.11.2013 passed by the Judicial Magistrate, 1st Class, Saharsa in Complaint Case No. 1356C of 2012 is set aside, besides entire criminal proceeding. The application stands allowed.

(Arun Kumar, J)

Sujit/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	28.08.2017
Transmission Date	28.08.2017

