

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.40041 of 2014

Arising Out of PS.Case No. -734 Year- 2010 Thana -PATNA COMPLAINT CASE District-
PATNA

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Md. Sarfaraz Son of Md Muslim R/o Mohalla Sahit Near Bajrang Chowk,
Vidyapati Nagar, P.S. Vidyapati Nagar, District Samastipur

.... Petitioner/s

Versus

1. The State of Bihar
2. Manita Wife of Md Alamgir R/o Mohalla Machuatoli, P.s. Kadamkuan,
District Patna

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Shivendra Kumar Sinha, Advocate

For the Opposite Party/s : Mr. Akbar Ali (APP)

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CORAM: HONOURABLE MR. JUSTICE S. KUMAR
ORAL ORDER

5 10-10-2017 This petition under Section 482 of Code of Criminal Procedure has been filed for quashing the order dated 03.06.2010 passed by learned Judicial Magistrate, 1st Class, Patna in Complaint Case No. 734(C) of 2010 by which the learned Magistrate has took cognizance of the offence under Sections 380, 323 and 504 of the Indian Penal Code.

2. Briefly stated, the facts of the case is that the complainant is legally wedded wife of Alamgir and other accused are relative of her husband.

3. It has been alleged in the complaint that she has been deserted by the husband and she had filed maintenance case against her husband. It has been further alleged that accused



persons are regularly threatening her for withdrawal of maintenance case and on 18.03.2010 all accused persons came to the complainant and forced her to sign on blank paper and they also misbehaved and assaulted her and when she raised alarm people assembled there and accused persons took away silver ornaments and cash of Rs. 700/- and also threatened to kill her.

4. The petitioner is younger brother of husband of complainant and on the said date of occurrence i.e. 18.03.2010 the petitioner was at Oman and he was there from 31.10.2009 to 24.10.2011 and such entry has been made in his passport, as such, allegations made against him cannot be true as he was outside the country which is duly entered in his passport. It has further been contended that in the S.A. of the complainant it is apparent that marriage was solemnized between them as per their own choice and they knew each other before the marriage and in their marriage no family member were present.

5. Thereafter some dispute arose between the couple and she started living at her parental home and on account of dispute with her husband she implicated entire family of the husband including the petitioner. There is general and omnibus allegation against the petitioner and no specific over-act has been attributed against the petitioner. Whole story appears to be false and



concocted and there was no occasion or reason for petitioner to commit alleged offence as he was not even present on alleged date of occurrence in India.

6. Considering the facts and circumstances of the present case and the nature of allegation and offence and in view of the unimpeachable documents confirming therein that the petitioner was in Oman on the date of alleged occurrence the order taking cognizance as far as same relates to petitioner is quashed.

7. The petition stands allowed.

(S. Kumar, J)

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