

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.43369 of 2013

Arising Out of PS.Case No. -4232 Year- 2012 Thana -VAISALI COMPLAINT CASE District-
VAISHALI(HAJIPUR)

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1. Adhiraj Pandey S/O Late Dharamraj Pandey Resident Of 9/3 K.N. Chatterji Street Belur, P.S. Hawra, District- Hawra (West Bengal)
2. Amalraj Pandey S/O Late Dharamraj Pandey Resident Of 9/3 K.N. Chatterji Street Belur, P.S. Hawra, District- Hawra (West Bengal)
3. Usha Pandey Wife Of Late Dharamraj Pandey Resident Of 9/3 K.N. Chatterji Street Belur, P.S. Hawra, District- Hawra (West Bengal)
4. Sandhya Singh Wife Of Madhusudan Singh Resident Of CF/E-5 DVC Colony, P.S. Chandrapura, District Dhanbad
5. Neena Ojha @ Neela Ojha Wife Of Bhup Narayan Ojha Resident Of 22/C B.N.Ojha Statue Road Liluaha, P.S. & District Hawra (Best Bengal)
6. Sunaina Sharma Wife Of Late Arjun Sharma Resident Of Village- Baikunthpur, P.S. Rajapakar, District Vaishali

.... Petitioners

Versus

1. The State Of Bihar
2. Rinaraj Sharma Wife Of Late Mukul Raj Sharma Resident Of Village- Baikunthpur, P.S. Rajapakar, District Vaishali

.... Opposite Parties

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Appearance :

For the Petitioner/s : Mr. Alok Kumar Jha

For the Opposite Party/s : Mr. Nagendra Pd.(App)

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CORAM: HONOURABLE MR. JUSTICE JITENDRA MOHAN SHARMA

ORAL ORDER

4 13-04-2017 The instant Criminal Miscellaneous application has been filed for quashing the order dated 06.04.2013 passed by learned Judicial Magistrate Ist Class, Vaishali at Hajipur in Complaint Case No. 4232 of 2012 / Trial No. 5377 of 2013 whereby and whereunder the learned Magistrate has taken cognizance against the petitioners for the offences under Sections 420, 467, 468, 471, 498A, 120B of the of the Indian Penal Code.

Heard learned counsel for the petitioners, learned APP



and learned counsel for the opposite party no. 2.

Opposite party no. 2 filed a complaint case in the court of learned C.J.M., Vaishali at Hajipur alleging therein that the complainant is working in a private school and residing in Maiké and is maintaining her family. She is widow and after death of her husband the accused no. 1 being in collusion and conspiracy with other co-accused who have more sympathy to her nathi and daughter used to give money after selling the properties and when the complainant protested the action of accused no. 1, all the accused persons subjected her with torture, whenever the complainant used to come in-laws house she was being abused and was told that she had killed her husband. The accused persons have forced her to reside at Maiké. The ornaments of the complainant is locked in one Almirah and the accused no. 1 has taken the custody of that Almirah. Further the accused persons in connivance has filed a case in Lok Adalat and got amicably settled in terms of compromise wherein they have made statement that the husband of the complainant had died unmarried though the husband of the complainant died leaving behind the complainant and two sons Anand Raj and Sujal Raj.

The learned Magistrate after considering the statement of the complainant on solemn affirmation and considering the



statements of the witnesses has come to the conclusion that prima facie case, in the facts and circumstances of the case, is made out and then passed the order for issuing summons against the accused persons.

On behalf of the petitioners it is submitted that cognizance order is barred under Section 195 Cr.P.C., the matter relates to court affairs and as such without complaint of the court no cognizance can be taken under Section 471 of the of the Indian Penal Code. Further it is submitted that petitioner no. 1 and 2 were not parties before the Lok Adalat, in spite of that against them also summons have been ordered to be issued and as such the impugned order is fit to be set aside.

On the other hand learned APP and learned counsel for O. P. no. 2 submit that the learned Magistrate after considering the materials available on the record has passed the impugned order, the complainant in her statement recorded on S.A. and the inquiry witnesses namely, Ram Babu Singh, Ram Naumi Sharma and Umesh Singh in their statement have supported the prosecution case and from those materials prima facie offence is made out against the accused persons under Sections 420, 467, 468, 471, 498A, 120 B of the of the Indian Penal Code and as such there is no illegality, incorrectness or impropriety in the said order.



Having considered the submissions urged at bar and after going through the records, this Court finds that the learned Magistrate after considering the materials available on the record which have been collected during inquiry has rightly passed the impugned order. The complainant and her three inquiry witnesses have supported the prosecution case in its entirety and as such there being no illegality, incorrectness and impropriety the impugned order does not require any interference by this Court, in the result, finding no merit in this criminal miscellaneous application, the same is hereby dismissed.

(Jitendra Mohan Sharma, J)

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