

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.30881 of 2013

Arising out of Complaint Case No. -31 Year- 2012 Thana -SAMASTIPUR COMPLAINT CASE
District- SAMASTIPUR

- =====
1. Panchu Singh @ Panchu Mandal, s/o late Bhola Mandal
 2. Daulat Devi, w/o Panchu Singh @ Panchu Mandal
 3. Ramakant Kumar, s/o Panchu Singh @ Panchu Mandal
- All resident of village- Bhathi, P.S.- Hathouri, District- Samastipur

.... Petitioners

Versus

1. The State Of Bihar
2. Most. Renu Devi, w/o Ramanand Kumar Singh, resident of village- Bhathi, P.S.- Hathouri, District- Samastipur, presently residing at - D/O Panchdev Mandal, resident of village- Mahadeva, P.S.- Rosera, District- Samastipur.

.... Opposite Parties

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Appearance :

For the Petitioners : Mr. Sunil Kumar Thakur, Advocate
For the State : Mr. Nawal Kishore Pd., A.P.P.

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CORAM: HONOURABLE MR. JUSTICE SANJAY PRIYA

ORAL JUDGMENT

Date: 09-01-2017

Heard learned counsel for the Petitioners and the State.

This application under Section 482 Cr. P.C. has been filed by the petitioners for quashing the order dated 1.4.2012/2.4.2012 passed in Complaint Case/C.R. No. 31 of 2012 (T.R. No. 2220 of 2012) by the Sub Divisional Judicial Magistrate, Rosera, Samastipur, by which he has found prima facie case against them for the offence under Sections 323 and 498A of the Indian Penal Code, and further in addition to the aforesaid, under Section 493 of the Indian Penal Code against petitioner No. 3 Ramakant Kumar.

Nobody has appeared on behalf of the opposite party



No. 2 in spite of notices having been validly served upon him.

The learned counsel for the petitioners has submitted that the court below without properly appreciating the statement of enquiry witnesses, took cognizance in the case. It has been submitted that petitioner No. 3 is minor. His date of birth is 25.8.99 as per the birth certificate of Principal Rosera High School, Samastipur vide Annexure-2.

But from impugned order it appears that no such plea of juvenility was taken in the lower court on behalf of the petitioner No. 3.

On perusal of the S.A. of the complainant, it appears that the age of opposite party No. 2 is 21 years. She has levelled specific allegation against petitioner No. 3 of committing illegal act with her on the promise to marry her.

In view of the aforesaid facts, this Court does not find any illegality in the impugned order passed by the learned Sub Divisional Judicial Magistrate holding prima facie case against petitioner No. 3 Ramakant Singh for the offence under Sections 323, 498A and 493 of the Indian Penal Code.

So far the order of the learned Magistrate by which he has found prima facie case for the offence under Sections 323 and 498A of the Indian Penal Code against Daulat Devi and Panchu Singh



@ Panchu Mandal, this Court find that there is no allegation of specific overt act against them by complainant in her S.A. Therefore, the continuance of Criminal Proceedings against them is abuse of the process of law. Accordingly the order of cognizance against them for the offence under Sections 498A and 323 of the Indian Penal Code and the entire proceedings is hereby quashed.

This application is accordingly allowed in part.

The trial court is directed to proceed against petitioner No. 3 namely Ramakant Singh in accordance with law.

(Sanjay Priya, J)

S.Ali/-

AFR/NAFR	NAFR
CAV DATE	N/A.
Uploading Date	21.01.2017
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