

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.34475 of 2013

Arising Out of PS.Case No. -1757 Year- 2010 Thana -WEST CHAMPARAN COMPLAINT
District- WESTCHAMPARAN(BETTIAH)

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1. Ramesh Prasad Yadav Son Of Shiv Charan Yadav Resdient Of Village Barharia, Pokhara Toli, Police Station Majhalulia, District West Champaran At Bettiah.
 2. Guddi Devi Wife Of Ramesh Yadav Resdient Of Village Barharia, Pokhara Toli, Police Station Majhalulia, District West Champaran At Bettiah.
 3. Yogendra Yadav Son Of Shiv Charan Yadav Resdient Of Village Barharia, Pokhara Toli, Police Station Majhalulia, District West Champaran At Bettiah.
 4. Braj Kishore Yadav @ Jhagru Yadav Son Of Shiv Charan Yadav Resdient Of Village Barharia, Pokhara Toli, Police Station Majhalulia, District West Champaran At Bettiah.
 5. Leelawati Devi Wife Of Braj Kishore Yadav Resdient Of Village Barharia, Pokhara Toli, Police Station Majhalulia, District West Champaran At Bettiah.
 6. Rita Devi Wife Of Yogendra Yadav Resdient Of Village Barharia, Pokhara Toli, Police Station Majhalulia, District West Champaran At Bettiah.
 7. Nand Kishori Devi Wife Of Rajendra Yadav Resident Of Vilalge Guddupur, Police Station Harisdhi, District East Champaran At Motihari.
 8. Rajendra Yadav Son Of Tulsi Yadav Resident Of Vilalge Guddupur, Police Station, Harsidhi, District East Champaran At Motihari.
 9. Tara Devi Wife Of Jamadar Yadav Resident Of Vilalge Gayaghat Police Station Harisidhi, District East Champaran At Motihari.
 10. Jamadar Yadav Son Of Both Resident Of Vilalge Gayaghat Police Station Harisidhi, District East Champaran At Motihari.
 11. Kanti Devi Son Of Ram Awtar Yadav Resident Of Kurmi Tola, Police Station Sugauli, District East Champaran At Motihari.

.... Petitioner/s

Versus

1. The State Of Bihar.
2. Shobha Devi Wife Of Ramesh Prasad Yadav And Daughter Of Langer Yadav Resdient Of Vilalge Barwat Sena, Police Station Muffasil, District East Champaran At Bettiah.

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Amarendra Kumar, Adv.
For O.P.No.2 : Mr. Jainendra Kumar Pushkar
For the Opposite Party/s : Mr. Anita Kumari Singh(App)

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CORAM: HONOURABLE MR. JUSTICE VINOD KUMAR SINHA
ORAL ORDER



3 11-01-2017 This application has been filed on behalf of the petitioners for quashing order dated 26.04.2013 passed in Complaint Case No.1757(C) of 2010 by the learned Sub-Divisional Judicial Magistrate, Bettiah (West Champaran), whereunder and whereby all the accused persons were summoned to face trial for the offence under Sections 498A and 494 of the Indian Penal Code and Sections 3 and 4 of the Dowry Prohibition Act.

However, this court vide order dated 12.8.2014 rejected the prayer for quashing the criminal proceeding against petitioner no.1 and so far other petitioners are concerned, notices were issued to Opposite Party no.2, in pursuance of that the Opposite Party No.2 has appeared.

The prosecution story in short is that the complainant got married with petitioner no.1 on 26.04.1994 and they were blessed with a daughter but after some time the accused stated demanding money and a Motorcycle, on that ground, they started torturing her, thereafter, the accused persons filed Divorce Case No.14 of 2007. The mother of the complainant gave Rs.50,000/ and thereafter, the said Divorce Case was withdrawn but the accused persons again started demanding



money. Thereafter, petitioner no.1 got married with co-accused, Guddi Devi on 28.05.2010 and ousted the complainant from the matrimonial house.

After due inquiry under Section 202 of the Code of Criminal Code, prima facie the case was found out only against three accused persons, out of 14 named persons in the complaint petition, and the processes were issued against them under Section 204 of the Code of Criminal Procedure. Against the aforesaid order, the Opposite Party No.2 preferred Criminal Revision No.155 of 2011, which was allowed and the matter was remanded back to the court below for passing fresh order, after fresh inquiry, vide order dated 22.05.2012. Thereafter, the learned court below has passed the order dated 26.4.2013 in complaint case no.175(C) of 2010, finding prima facie the case against all the 14 accused persons and directed for issuance of process against them under Section 204 of the Code of Criminal Procedure and the above order is under challenge before this Court in this application.

It is submitted on behalf of the petitioners that after inquiry, the learned Sub-divisional Judicial Magistrate, Bettiah



found the case true against three accused persons and accordingly, processes were issued but after the remand order passed by the learned Revisional court in most mechanical manner and also without any further inquiry issued processes against all the 14 accused persons though two of the accused persons have died earlier. Rest 12 accused persons have come before this court by filing this application under Section 482 of the Code of Criminal Procedure. It is further submitted that order issuing processes against petitioner No.2 to 12 is concerned, it is passed in the most mechanical manner and without any fresh enquiry as such the order issuing process dated 26-04-2013 passed by the learned Sub-divisional Judicial Magistrate, Bettiah is not sustainable in the eye of law and it is error apparent on the face of the record.

Heard learned A.P.P. as well as the learned counsel for the Opposite Party No.2, they have opposed the application stating that the learned court below has passed the order after perusal of the complaint petition and the materials available on record, however, the learned counsel for the Opposite Party no.2 could not controvert this fact that during the intervening period prior



to impugned order, two accused persons have died but the processes were issued against them also

Having heard both sides. From perusal of the record, it clearly appears that as a matter of fact earlier summons were issued against the three accused persons only against which the Opposite Party No.2 had preferred a Revision Application, which has been allowed and the matter was remitted back to the learned court below for passing order after further inquiry but it appears that the learned court below in the most mechanical manner has passed the order issuing processes against all the accused persons even not verifying the fact that two of the accused persons have already died and this fact has not been controverted by the learned counsel for the Opposite Party No.2. It also appears that before issuing processes against the petitioners, even no fresh enquiry was conducted though there is such direction by the Revisional court.

In view of the facts as stated above the impugned order with regard to Petitioner No.2 to 12 are quashed and the matter is remitted back to the learned court below for deciding it afresh after considering the materials available on the record. So far



case of the petitioner no.1 is concerned, the same has already been rejected by this Hon'ble Court, vide order dated 12.08.2014.

Accordingly, this application is allowed.

(Vinod Kumar Sinha, J)

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