

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.12620 of 2013

Arising Out of Complaint.Case No. -492 Year- 2011 Thana -GAYA COMPLAINT CASE District- -

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1. Alauddin Khan S/O Abdul Rasid Khan R/O Mohalla - Moghal Khan (Kamalpur) Police Station - Bundel Khand, District - Nawada
 2. Atthar Khan @ Md. Atthar S/O Alauddin Khan R/O Mohalla - Moghal Khan (Kamalpur) Police Station - Bundel Khand, District - Nawada
 3. Sajda Khatoon W/O Alauddin Khan R/O Mohalla - Moghal Khan (Kamalpur) Police Station - Bundel Khand, District - Nawada
 4. Nagma Khanam D/O Alauddin Khan R/O Mohalla - Moghal Khan (Kamalpur) Police Station - Bundel Khand, District - Nawada
 5. Md. Mumtaz Khan S/O Late Mushari Khan R/O Mohalla - Moghal Khan (Kamalpur) Police Station - Bundel Khand, District - Nawada
 6. Anjum Perween W/O Alim Khan R/O Mohalla - Moghal Khan (Kamalpur) Police Station - Bundel Khand, District - Nawada
 7. Ghuncha Khanam @ Ghuncha D/O Alauddin Khan R/O Mohalla - Moghal Khan (Kamalpur) Police Station - Bundel Khand, District - Nawada

.... Petitioners

Versus

1. The State Of Bihar
2. Anisa Khatoon W/O Md. Alauddin Khan R/O Village - Karmauni, Police Station - Dobhi, District - Gaya

.... Opposite Parties

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Appearance :

For the Petitioners : Mr. Vijay Kumar Sinha
Mr. Satendra Kumar Bhatnagar
For the Opposite Party/s : Mr. Amit Kumar
Mr. Ajay Kumar No. 1

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CORAM: HONOURABLE MR. JUSTICE ARUN KUMAR

ORAL JUDGMENT

Date: 12-10-2017

Heard learned Counsel for the petitioners and the learned Counsel for the Opposite parties.

2. The petitioners seek quashing of the order dated 24.12.2011 passed by the Judicial Magistrate, 1st Class, Sherghati, Gaya in Complaint Case No. 492 of 2011 taking cognizance of the offence under Sections 323 and 149 of the IPC against all and under Section 379 IPC against petitioner Nos. 1 and 2 only.



3. The brief facts giving rise to the case is that the complainant Anisa Khatoon, O.P. No. 2, filed complaint against her daughter-in-law, petitioner No. 4 and against her all family members from parental side, alleging that once she went to her parents' house on the pretext of attending marriage ceremony with all her belongings and ornaments and thereafter refused to return back. Several times the complainant and her son went over the parents' house of her daughter-in-law in order to persuade her to come back to her matrimonial home, but she refused to return back. The complainant found her daughter-in-law in compromising position with a boy of the village and it is alleged that one day on 10.9.2011 father of the daughter-in-law of the complainant and her brother came to her house and committed theft by taking away the boxes and brief-case.

4. Learned Counsel for the petitioners submits that the present complaint is malicious in nature and the fact is that the petitioner No. 4 Nagma Khanam, daughter-in-law of the present complainant lodged police case vide Nawada PS Case No. 138 of 2011 instituted on 14.3.2011 under Section 498A and other sections against her husband, mother-in-law and other family members. After coming to the knowledge of institution of the police case they concocted the false story and lodged the present false complaint case on 15.9.2011 in order to put pressure on them. The case was compromised but again she was tortured and one day assaulted badly and she came to the matrimonial home for which she has filed Nawada P.S. Case No. 575 of 2012 on 1.11.2012. The petitioners in this case are father and mother of Nagma Khanam, petitioner no. 4, her brother, maternal aunt and other family members. Moreover the story of committing theft is also improbable that father of the daughter will go to her matrimonial home for committing theft.

5. Contrary to that, learned Counsel appearing on behalf of the O.P.



No. 2 submits that ingredients of the offence is made out.

6. Having considered the rival submissions and on perusal of the records, the Court finds that the prior to the lodging of the present complaint, petitioner No. 4 Nagma Khanam, who happens to be daughter-in-law of the complainant had lodged a police case against her husband and others under Section 498A and other sections of the IPC. Thereafter the present complaint was filed. The allegations leveled against the petitioners appear to be absurd and malicious in nature in order to take personal vengeance as the earlier the petitioner No. 4 had instituted police case against the complainant and other family members.

7. For the aforesaid reasons and circumstances, continuation of the present criminal proceeding in the present case will be abuse of the process of the Court. So entire criminal proceeding of Complaint Case No. 492 of 2011 inclusive of the cognizance order dated 24.12.2011 pending in the Court of Judicial Magistrate, Sherghati, Gaya, is hereby quashed.

8. This application stands allowed.

(Arun Kumar, J.)

Snkumar/-

AFR/NAFR	NAFR
CAV DATE	N/A
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