

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.27796 of 2014

Arising Out of PS.Case No. -2779 Year- 2013 Thana -MUZFFARPUR COMPLAINT CASE
District- MUZAFFARPUR

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1. Sakhawat Rain S/o Md. Kuddus
 2. Md. Saukat S/o Md. Kuddus Both 1 and 2 resident of Village- Dharharwa, Tole- Hanuman Nagar, P.S- Aurai, District- Muzaffarpur. Petitioners.
- Versus
1. The State of Bihar.
 2. Md. Kalam Son of Late Etwari Mian R/o Village- Dharharwa Tole, Hanuman Nagar, P.S- Aurai, District- Muzaffarpur. Opposite Parties.
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Appearance :

For the Petitioners : Mr. Anil Chandra, Adv.
For the State : Mr. Uma Nath Mishra, A.P.P.

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CORAM: HONOURABLE MR. JUSTICE PRAKASH CHANDRA JAISWAL
ORAL JUDGMENT

Date: 12-07-2017

Heard learned counsel for the petitioners and learned A.P.P. for the State. In spite of filing Vakalatnama on behalf of opposite party no.2 no one is present on his behalf.

2. This application has been preferred under Section 482 of the Code of Criminal Procedure for quashing of the order dated 15.05.2014, passed in Complaint Case No.2779/2013, Corresponding Tr. No.4137/2014 by Judicial Magistrate 1st Class, Muzaffarpur, by which the learned Magistrate has ordered to issue summon against the petitioners finding prima facie case under Sections 323, 341, 385 and 504/34 of the Indian Penal Code.

3. It has been submitted by learned counsel for the petitioners that the maternal granddaughter of the complainant, namely, Anisha Khatoon has filed Aurai P.S. Case No.179 of 2013



for an offence under Sections 498-A, 342 and 323/34 of the Indian Penal Code and Sections 3 and 4 of the Dowry Prohibition Act against the petitioners and others. Opposite Party No.2-Md. Kalam happens to be maternal grandfather of the said Anisha Khatoon. He has filed this case against the petitioners and others to mount pressure upon them with wrong, vague and baseless facts, which is abuse of the process of the Court. Hence, the cognizance taken against the petitioners in this case by the impugned order be quashed.

4. The complainant has filed this petition against the petitioners and others with the allegation in succinct that his granddaughter, namely, Anisha Khatoon was got hitched with petitioner no.1-Sakhawat Rain who subjected her to cruelty and torture for the dowry demand of Rs. 50,000/-. On 06.10.2013, the local Sarpanch took him to the Panchayat Bhawan and started mounting pressure upon him to change his statement. On protest made by him on exhortation of Sarpanch, all the accused persons named in the complaint petition thrashed him and obtained his and his two sons' thumb impression on blank paper.

5. During course of enquiry, the complainant examined himself on solemn affirmation and also examined his two witnesses. The learned Magistrate, after perusing the



complaint petition and the deposition of the witnesses, finding prima facie case under Sections 323, 341, 385 and 504/34 of the Indian Penal Code, ordered to issue summon against the petitioners.

6. From perusal of the records, it appears that the granddaughter of the complainant has filed Aurai P.S. Case No.179 of 2013 against the petitioners and others for subjecting her to torture and cruelty for the dowry demand alleging the date of occurrence as 27.09.2013. The aforesaid F.I.R. was filed on 09.10.2013. After the aforesaid alleged occurrence against her granddaughter, the complainant has filed this complaint petition against the petitioners and others in addition to the allegation of subjecting his granddaughter to torture and cruelty over dowry demand with the allegation that the Sarpanch took him to the Panchayat Bhawan and mounted pressure upon him to change his statement and thrashed him and obtained his and his two sons' thumb impression on blank paper. The allegation of the complainant regarding mounting pressure upon him to change the statement appears to be vague. It has not been mentioned in the complaint petition as to what statement the accused persons wanted to be changed by the complainant. Moreover, the aforesaid occurrence is said to have taken place at the Panchayat Bhawan,



Dharharwa, P.S.-Aurai at the instance of Sarpanch, namely, Milan Thakur who had taken him to the said Panchayat Bhawan but the cognizance has not been taken against the said Sarpanch by the Court. The aforesaid case filed by the complainant appears to be step in aid to the case filed by the maternal granddaughter of the complainant against the petitioners and others.

7. In my considered opinion, it is misuse of process of the Court. Accordingly, this application is allowed and the order dated 15.05.2014 passed by the learned Judicial Magistrate 1st Class, Muzaffarpur in Complaint Case No.2779 of 2013, corresponding Tr. No.4137 of 2014 is quashed.

(Prakash Chandra Jaiswal, J.)

Trivedi/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	17.07.2017
Transmission Date	17.07.2017

