

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.21428 of 2014

Arising Out of PS. Case No.-942 Year-2011 Thana- MUNGER COMPLAINT CASE District-
Munger

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1. Raghubeer Prasad S/o Late Baidyanath Prasad
 2. Aditya Raj S/o Raghubeer Prasad
 3. Rekha Devi W/o Raghubeer Prasad
 4. Neha Kumari S/o Raghubeer Prasad All resident of Mohalla-
Khalasi, Near Loco Gate, Jamalpur, P.S.- Jamalpur, District-
Munger

... .. Petitioner/s

Versus

1. The State of Bihar
2. Vandana Devi W/o Krishna Paswan, resident of Mohalla- Khalasi, Near Loco
Gate, Jamalpur, P.S.- Jamalpur, District- Munger

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Rakesh Singh
For the Opposite Party/s : Mr. MAYANAND (APP)

CORAM: HONOURABLE MR. JUSTICE S. KUMAR
ORAL JUDGMENT

Date : 29-11-2017

Heard learned counsel for the parties.

This petition under section 482 of the Cr.P.C has been filed for quashing the order of cognizance dated 23.12.2011 passed by learned Judicial Magistrate 1st Class, Munger Complaint Case No. 942C of 2011 taking cognizance of the offence under sections 354, 379, 504, 323 of the Indian Penal Code, against the petitioners.

Briefly stated, the facts of the case is that on 30.09.2011 the informant-Opposite Party No. 2 filed a complaint before the C.J.M., Munger stating that on 28.09.2011



at about 4:30 pm, the petitioners variously armed with lathi, pistol and bricks entered into her house and after abusing pulled her out of the house and petitioner no. 1 pulled out her sari. It is further stated that the petitioner no. 2 fired and therefore, outraged her modesty. The petitioner no. 1 snatched golden chain worth Rs. 40,000/-, petitioner no. 3 snatched silver payal, and petitioner no. 4 snatched a golden ring from informant-Opposite Party No. 2. The husband of informant-Opposite Party No. 2 was not present in the house and after husband of informant-Opposite Party No. 2 returned, they went to the police station to lodge the case but they were advised to lodge the case in harijan police station and as such complaint petition was filed.

The complainant opposite party no. 2 was examined on S.A. by the court and thereafter in support of complaint, inquiry witnesses were also examined and on the basis of complaint petition S.A. of complainant and statement of inquiry witnesses, the court below took cognizance under sections 354, 379, 504 and 323 of the Indian Penal Code.

Learned counsel for the petitioners submit that they have been falsely implicated in this case and on 28.09.2011 at about 8:00 pm the petitioner no. 4 Neha Kumari, lodged



Jamalpur P.S. Case No. 93 of 2011 under Section 354 of IPC against the husband of informant-Opposite Party No. 2 and present case is counter blast of the said case. It has further been submitted that after investigation the police submitted the chargesheet in Jamalpur P.S. Case No. 93 of 2011 on 30.09.2011 against Krishna Paswan (husband of informant-Opposite Party No. 2) under Section 354 of the Indian Penal Code and cognizance was taken by the court below on 13.10.2011 under Section 354 of IPC. The present case was lodged by informant-Opposite Party No. 2 after two days of Jamalapur P.S. Case No. 93 of 2011, and has been filed as a counter blast to the said case and as such it has been filed only to harass and humiliate the petitioners.

The court below took cognizance of the offence under Sections 323, 504, 354 and 379 of the Indian Penal Code, on the basis of complaint petition, statement of inquiry witnesses and materials available on record. The court below found sufficient materials against the petitioners for taking cognizance of the offence against them and thereafter issued summons for their appearance. The High Court in its inherent jurisdiction cannot go into sufficiency or adequacy of evidence with respect to *prima facie* opinion formed by the trial court against the



petitioners. It is the function of the trial court. The case cannot be quashed only on the ground that the same is counter blast to the case filed by the accused-petitioners.

Considering the facts and circumstances of the present case, the present petition is dismissed. However, liberty is granted to the petitioners to raise all the issues raised in this petition as well as other issues available to them in law at the time of consideration of their discharge petition or framing of charge by the trial court, if not already framed.

With such observation and liberty, the present petition is disposed of.

(S. Kumar, J)

ranjan/-

AFR/NAFR	NAFR
CAV DATE	N.A.
Uploading Date	30.11.17
Transmission Date	30.11.17

