

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.31532 of 2011

=====

Sachchidanand Choudhary son of Late Umesh Chandra Choudhary,
Resident of Village Kursandi, P.S. Piraini, Distt. Madhepura

.... Petitioner/s

Versus

The State of Bihar

.... Opposite Party/s

=====

Appearance :

For the Petitioner/s : Mr. Satyendra Rai

For the Opposite Party/s : Mr. T.Sharma(App)

=====

CORAM: HONOURABLE MR. JUSTICE SANJAY PRIYA
ORAL ORDER

15 06-11-2017

This application has been filed to quash the order for taking cognizance dated 04.02.2003 passed by the learned Chief Judicial Magistrate, Begusarai in Complaint Case No. 1030C of 1998, whereby Prima facie case has been found under Sections 376 and 511 IPC after holding enquiry.

Learned counsel for the petitioner has submitted that he had gone to execute a warrant of arrest with respect to brother of the complainant and just as retaliation, the instant complaint case has been registered.

Counsel for the petitioner has filed the copy of the order dated 08.06.1998 with a supplementary affidavit to show that process under Section 82 Cr.P.C. was issued against the brother of the complainant. But in the supplementary affidavit no any paper has been filed in support of the statement made on behalf of the petitioner that he had gone to the house of



complainant for execution of the aforesaid process on the date of occurrence. The time of occurrence given in the complaint is 12:00 at night and at that time no police officer can enter into the house of the petitioner without permission of the court/Magistrate.

Learned counsel for the O.P. No. 2 has submitted that complainant earlier made complaint against the petitioner before the S.P., Begusarai, annexed as Annexure-3, which is enquiry report. The petitioner has committed such offence with the complainant just in retaliation. From the impugned order, it appears that earlier the complaint was dismissed under Section 203 Cr.P.C. Thereafter, the complainant filed revision application being Cr. Rev. No. 29 of 2000 before the learned Sessions Judge which was allowed and learned Magistrate was directed to hold further enquiry. During further enquiry, both the daughters of the complainant were examined by the learned Magistrate. They have supported the case of complaint. Thereafter, the learned Chief Judicial Magistrate found prima facie case against the petitioner for the offence under Sections 376 and 511 of IPC and summoned the petitioner to face trial.

This Court does not find any illegality in the impugned order. Hence the criminal miscellaneous application is dismissed.



The petitioner will be at liberty to raise all the points as raised in this Court at the time of framing of charge in the court below, which shall be considered by the learned court in accordance with law without being prejudiced by this order.

(Sanjay Priya, J)

sushma/-

U		T	
---	--	---	--

