

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.13694 of 2014

Arising Out of PS.Case No. -1684 Year- 2012 Thana -EAST CHAMPARAN COMPLAINT
District- EASTCHAMPARAN(MOTIHARI)

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1. Kiran Sinha (Child Development Project Officer, Kesariya) Wife of Anand Saran Lal, resident of the flat No.-503, Hemplaza, Frazer Road Patna, P.S.- Kotwali, District- Patna.
 2. Sima Kumari (Supervisor, Purvi Sundrapur Panchayat) W/o Shri Krishna Kumar, Village- Paltubelwa, P.S.- Chakiya, District- East Champaran, Motihari.
 3. Sandeep Kumar (Computer Operator) Son of Ram Chandra Prasad, residing at Chakiya Barabazar, P.S.- Chakiya, District- East Champaran, Motihari.

.... Petitioner/s

Versus

1. The State of Bihar.
2. Md. Mohibullah S/o Late Sheikh Sharif, residing at Bairiya, P.S.- Kesariya, District- East Champaran, Motihari.

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Ranjan Kumar Jha, Adv.
For the Opposite Party/s : Mr. Nafuzzoha, Adv.
For the State : Dr. Mayanand Jha, APP

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CORAM: HONOURABLE MR. JUSTICE SANJAY KUMAR

ORAL JUDGMENT

Date: 22-08-2017

Heard the parties and perused the record.

2. This criminal miscellaneous application under section 482 of the Criminal Procedure Code, has been filed to quash the order dated 13.09.2013 passed by Sri R.K. Bharti, Judicial Magistrate 1st Class, Sadar at Motihari in Tr. No. 4971/2013 arising out of Complaint Case No.1684 of 2012. The learned Court below, as per impugned order, took cognizance under sections 323, 504/34 of the Indian Penal Code.



3. The petitioners are Child Development Project Officer, Supervisor and Computer Operator, posted at Kesaria Sub-division. The opposite party no. 2 filed a Complaint Case on the file of learned Chief Judicial Magistrate, Motihari alleging *inter alia* that the petitioners were running their office in the house of complainant on a monthly rent of Rs.1,800/-. They stopped making payment of rent since last three years and on demand, these petitioners demanded their commission and on protest, they abused and assaulted the complainant.

4. The learned counsel for the petitioners submits that the wife of complainant was Anganbari Sevika in the office of the petitioners. She committed gross negligence in 'mid-day-meal' service and on complaint, she was removed from service as per order of the District Programme Officer, West Champaran, Motihari (Annexure-2) issued under memo. No. 42311 dated 28.05.2013. After her removal, the complainant being husband of said Anganbari Sevika, has lodged the complaint case with false and frivolous allegation only to harass the petitioners. The allegation default in payment of rent, is vague as no specific date of default has been given in the complaint petition. The complainant has filed this case alleging that the petitioners have stopped payment of rent, which is being denied by the petitioners. The complainant has remedy to take action



for eviction of petitioners and realization of rent from them under the Building Control Act/ Transfer of Property Act.

5. The dispute between the parties is purely a civil dispute. The complainant has filed the complaint case only after removal of his wife from the office of the petitioners. The act of the complainant appears to be out of vengeance. The allegation of abusing and assaulting is also vague. The order taking cognizance against the petitioners and their prosecution, in such circumstance, appears to be an abuse of process of Court.

6. In view of discussion made above, this criminal miscellaneous application is allowed and the order dated 13.09.2013 taking cognizance for the offences under sections 323/504/34 of the Indian Penal Code as well as criminal prosecution of these petitioners is hereby quashed.

(Sanjay Kumar, J)

Mahesh/-

AFR/NAFR	NAFR
CAV DATE	N/A
Uploading Date	28.08.2017
Transmission Date	28.08.2017

