

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.41746 of 2013

Arising Out of PS.Case No. -206 Year- 2007 Thana -MOHANIA District- BHABHUA (KAIMUR)

- =====
1. Gita Singh Wife Of Satyendra Narayan Singh, resident of New Dillan, P.S.-Dehri On Sone, District-Rohtas
 2. Satyendra Narayan Singh Son Of Late Gupteshwar Singh Presently Posted As Assistant Engineer, Drainage And Investigation Division, Irrigation Department, Purnia, Bihar, R/O New Dillan, P.S.-Dehri On Sone, District-Rohtas

.... Petitioner/s

Versus

1. The State Of Bihar
2. Indira Singh Daughter Of Krishna Shankar Singh Station Road Mohania, P.S.-Mohania, District-Kaimur

.... Opposite Party/s

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with

Criminal Miscellaneous No.41811 of 2013

Arising Out of PS.Case No. -206 Year- 2007 Thana -MOHANIA District- BHABHUA (KAIMUR)

Dr. Umesh Kumar Singh Son Of Late Kameshwar Prasad Singh Resident Of Sambika Path, New Dillan, P.S.- Dehri On Sone, District- Rohtas, Bihar

.... Petitioner/s

Versus

1. The State Of Bihar
2. Indira Singh Daughter Of Late Krishna Shankar Singh Resident Of Station Road, Mohania, P.S.- Mohania, District – Kaimur

.... Opposite Party/s

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Appearance :

(In Cr.Misc. No.41746 of 2013)

For the Petitioner/s : Mr. Avanish Kumar Singh

For the Opposite Party/s : Mr. Kumar Sunil, Adv

For the State : Mr. H.A.Khan (App)

(In Cr.Misc. No.41811 of 2013)

For the Petitioner/s : Mr. Avanish Kumar Singh, Adv

For the Opposite Party/s : Mr. Kumar Sunil, Adv

For the State : Mr. H.A.Khan (App)

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CORAM: HONOURABLE MR. JUSTICE SANJAY PRIYA

ORAL ORDER

4 11-04-2017

This application under Section 482 of the Code

of Criminal Procedure has been filed for quashing the order dated



04.06.2013, passed by the Chief Judicial Magistrate, Bhabhua (Kaimur) in Mohania P.S. Case No. 206 of 2007, wherein cognizance has been taken against the petitioners under Sections 498(A), 323, 341, 504, 406, 420, 192, 120B of the Indian Penal Code.

It has been submitted on behalf of the petitioners of Cr. Misc. No. 41746 of 2013 that they are sister-in-law (*Nanad*) and brother-in-law (*Nandosi*) of the informant. They have been made accused in this case merely because petitioner No. 2 has deposed in the Matrimonial Case No. 13 of 2006 filed by the husband of the informant/opposite party no. 2 Dr. Umesh Kumar Singh against his wife/informant. There is no allegation of any overt act against these petitioners. They are living separately from both the husband and wife. The petitioner No. 2 is a government servant posted as Assistant Engineer in Drainage and Investigation Division, Irrigation Department, Purnea, Bihar. The petitioner No. 2 has given details of his place of posting to show that he has no concern with the family affairs of husband and wife/informant. The petitioner No. 1 is wife of petitioner No. 2 and she is elder sister of husband of the informant/opposite party no. 2. In the judgment of Hon'ble Supreme Court in the case of **Geeta Mehrotra & Anr. versus State of U.P. reported in (2012) 10**



SCC 741, it has categorically been observed that “mere casual reference of the names of the family members in a matrimonial dispute without allegation of active involvement in the matter would not justify taking cognizance against them overlooking the fact borne out of the experience that there is a tendency to involve the entire family members of the husband in the domestic quarrel taking place in a matrimonial dispute especially if it happens soon after the wedding.”

It has been submitted on behalf of the informant and learned Additional Public Prosecutor that charge-sheet has been submitted by the police after collecting proper evidence and at this stage, it is not proper to look into the defence of the accused. There is allegation against all the petitioners in the First Information Report.

This Court after looking into the allegation against these petitioners is of the view that there is no active involvement of these petitioners in the family affairs of husband and informant. The continuance of criminal proceedings against them will be abuse of the process of law.

Accordingly, the order of cognizance dated 04.06.2013, passed by the Chief Judicial Magistrate, Bhabhua (Kaimur) in Mohania P.S. Case No. 206 of 2007 along with entire



criminal proceeding with regard to the petitioners of Cr. Misc. No. 41746 of 2013 is hereby quashed.

So far cognizance order with regard to petitioner of Cr. Misc. No. 41811 of 2013 is concerned, he is husband of the informant/opposite party no. 2. There is specific allegation against him in the written report as well as in the case diary.

In such circumstance, this Court does not find any illegality in the impugned order dated 04.06.2013, passed by the Chief Judicial Magistrate, Bhabhua (Kaimur) in Mohania P.S. Case No. 206 of 2007, whereby cognizance has been taken against the petitioner of Cr. Misc. No. 41811 of 2013(husband) under Sections 498(A), 323, 341, 504, 406, 420, 192, 120B of the Indian Penal Code.

Accordingly the application with regard to petitioner Dr. Umesh Kumar Singh (Cr. Misc. No. 41811 of 2013) stands dismissed.

The Trial Court will proceed against petitioner Dr. Umesh Kumar Singh in accordance with law.

(Sanjay Priya, J)

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