

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.46603 of 2013

Arising Out of PS.Case No. -null Year- null Thana -null District- JAMUI

- =====
1. Baleshwar Mandal, son of Harsahai Mandal.
 2. Ashok Mandal.
 3. Sunil Mandal
 4. Vijay Mandal.
All sons of Sri Nuneshwar Mandal alias Muneshwar Mandal.
 5. Nuneshwar Mandal @ Muneshwar Mandal, son of Harsahai Mandal
 6. Rameshish Mandal, son of Sri Baleshwar Mandal.
All resident of village-Ghurmuria, P.S.-Sikandra, District-Jamui.

.... Petitioners.

Versus

1. The State of Bihar.
2. Subuja Devi, wife of Kaleshwar Mandal, resident of village-Ghurmuria, P.S.-Sikandra, District-Jamui.

.... Opposite Parties.

=====

Appearance :

For the Petitioners : Mr. Prakash Mahto, Advocate.
For the State : Mr. Dashrath Mehta, A.P.P.
For the Opposite Party No.2 : Mr. Ranjeet Patel, Advocate.

=====

CORAM: HONOURABLE MR. JUSTICE RAJENDRA KUMAR MISHRA

ORAL JUDGMENT

Date: 11-05-2017

Heard the parties.

2. This application, under Section 482 of the Code of Criminal Procedure, is directed against the order dated 10.04.2012 passed in Complaint Case No.216C of 2012, whereunder the court of the Judicial Magistrate, First Class, Jamui, summoned the accused-petitioners under Section 204 of the Code of Criminal Procedure, on inquiry, finding prima facie case under Section 376 of the Indian Penal Code against the accused-petitioner nos.3 and 6, namely, Sunil



Mandal and Rameshish Mandal respectively and under Sections 323, 504 and 452/34 against all the accused-petitioners.

3. Learned counsel appearing on behalf of the petitioners submits that, initially, the opposite party no.2 Sabuja Devi, filed Complaint Case No.144C of 2009 in the court of the Chief Judicial Magistrate, Jamui, against the accused-petitioners, which was sent, under Section 156(3) of the Code of Criminal Procedure, to the Police Station-Sikandra for investigation. Accordingly, Sikandra P.S. Case No.206 of 2009 under Sections 323, 504, 452, 376 and 307 of the Indian Penal Code was instituted and after investigation, the police submitted the final form but the protest petition filed by the opposite party no.2 Sabuja Devi was treated as Complaint Case No.216(C) of 2012. The Judicial Magistrate, First Class, Jamui on enquiry under Section 202 of the Code of Criminal Procedure Code summoned the accused-petitioners finding prima facie case under Sections 323, 504 and 452/34 of the Indian Penal Code and also under Section 376 of the Indian Penal Code to the accused-petitioner nos.3 and 6. It is further submitted that regarding the same occurrence, Dashrath Mandal, the son of the opposite party no.2 Sabuja Devi, also lodged Sikandra P.S. Case No.39 of 2009 under Sections 341, 323, 448, 379, and 504/34 of the Indian Penal Code against Sunil Mandal (petitioner no.3), Ashok Mandal(petitioner no.2), Nuneshwar Mandal (petitioner



no.5) and Baleshwar Mandal (petitioner no.1) in which on investigation, the police submitted the chargesheet under Sections 323, 448, 379 and 504/34 of the Indian Penal Code. As such, continuance of Protest-cum-Complaint Case No.216C of 2012 in which the accused-petitioners have been summoned through the impugned order is illegal and amounts to abuse of the process of the court.

4. On going through the impugned order, I find no illegality therein amounting to an abuse of the process of the court for interference with the same in an extraordinary jurisdiction of this Court under Section 482 of the Code of Criminal Procedure. Accordingly, this application stands dismissed. However, the petitioners would be at liberty to raise their point, as raised herein, before the trial court under appropriate provision of law.

(Rajendra Kumar Mishra, J)

P.S./-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	15.05.2017
Transmission Date	15.05.2017

