

**IN THE HIGH COURT OF JUDICATURE AT PATNA**

**Criminal Revision No.826 of 2016**

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1. Ram Khelawan Singh Son of late Raudi Singh Resident of  
Village- Fulma P.S. Akabarpur and Distt Nawada.

.... .... Petitioner

Versus

1. The State of Bihar
2. Miss Megha, Daughter of Sri Narendra Joshi
3. Smt. Jai Shree Devi, Wife of Sri Narendra Joshi
4. Niren Kumar, son of Sri Narendra Johi,  
2 to 4 are residents of 102/4, Rashmi Complex  
Hatcase, mangal nagar, Meera Road(E), P.S Kashi,  
Meera District Thane, Mumbai -401107
5. Jitendra Tiwari, Son of Sri Akhilanand Tiwari
6. Raju Tiwari @ Puspendra Tiwari, Son of Sri Akhilanand  
Tiwari
7. Akhilanand Tiwari, Son of not known to petitioner  
5 to 7 are residents of 102/A, Big Geeta Pushpa Phase  
-8, Geeta Nagar, Meera Bhaindar Road, Meera Road,  
(E)
8. Dr. Sanjay B. Trpathi (DHMS , Registration No. 30607)  
001/5, Rashmi Complex Hat Kase, Mangal Nagar, Meera  
Road(E), P.S Kashi Meera District Thane, Mumbai -  
401107

.... .... Respondents

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**Appearance :**

For the Petitioner/s : Mr. Alok Kumar Sinha, Sr. Adv.  
Mr. Bhola Kumar  
For the State : Mr. Ram Sumiran Roy

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**CORAM: HONOURABLE MR. JUSTICE CHAKRADHARI  
SHARAN SINGH  
ORAL ORDER**

4    15-03-2017                      Heard learned Senior Counsel appearing on  
behalf of the petitioner and learned Additional Public  
Prosecutor representing the State.

The petitioner is aggrieved by an order, dated



14.06.2016, passed by learned Chief Judicial Magistrate, Nawada, in Complaint Case No. 1917 of 2014, whereby he has rejected the said complaint case.

It transpires from the record that the petitioner had filed a complaint petition on 09.05.2013 in the Court of learned Chief Judicial Magistrate, Nawada, making allegation that his son, Shailesh Kumar Singh, was engaged in some business in Thane, Mumbai. He had come to his village home Fulma, under Akbarpur Police Station, District Nawada, on 26.03.2013, on the account of Holi festival. On 30.03.2013, his partners had come to Fulma village and said to have told said Shailesh Kumar Singh that they should go to Mumbai because their business was getting affected. Said Shailesh Kumar Singh accompanied his partners and went to Mumbai on 31.03.2013. Said Shailesh Kumar Singh died on 06.04.2013, of which the petitioner received information on 07.04.2013.

Raising a suspicion that under some conspiracy, the accused persons had kidnapped him from the said village Fulma, at Nawada, the petitioner filed the said complaint case on 09.05.2013, alleging commission of offences punishable under Sections 364/302/420/120B/34 of the Indian Penal Code. It further transpires from the complaint petition that the petitioner had allegedly



attempted to get First Information Report lodged on 15.04.2013 and sent a communication for registration of First Information Report on 30.04.2013. Despite that the First Information Report was not registered. The said complaint case led to registration of First Information Report under Section 156 (3) of the Code of Criminal Procedure, 1973, being Akbarpur Police Station Case No. 128 of 2013. The police, upon completion of investigation, submitted final report, holding it to be case of mistake of fact. The petitioner, thereafter, filed a protect -cum- complaint petition before the Court of learned Chief Judicial Magistrate, Nawada, in which the said impugned order has been passed.

A copy of the protect -cum- complaint petition has been brought on record by way of Annexure-2. It is the specific case of the petitioner that the deceased was killed at Thane, Mumbai. Learned Court below, upon analysis of the evidence adduced in the enquiry and other materials on record, has recorded his finding that no, *prima facie*, case of commission of offence under Section 364 of the Indian Penal Code was made out. The Court below also opined that no cause of action having been arisen within the jurisdiction of Nawada Court, the petitioner could file any case in the court of proper



jurisdiction where occurrence under Section 302 and 120 of the Indian Penal Code is said to have taken place.

Learned Senior Counsel appearing on behalf of the petitioner has submitted that part cause of action of kidnapping of the deceased from village Fulma had arising within the territorial jurisdiction of learned Chief Judicial Magistrate, Nawada, and, therefore, the impugned order is erroneous.

I have perused the First Information Report carefully. So far as the allegation that the deceased had gone to Thane with the accused persons, is concerned, no offence under Section 364 of the Indian Penal Code is made out. There is no allegation that the deceased had been, by use of any force or inducement, taken to Thane, Mumbai. It is admitted case that the deceased was doing some business in Thane. If, no offence under Section 364 of the Indian Penal Code is made out on what has been alleged in the complaint petition and protect -cum-complaint petition and, therefore, no cause of action having arisen within the territorial jurisdiction of Nawada Court, the learned Court below has rightly passed the impugned order, allowing the petitioner to file any case in the court of competent jurisdiction.

What I have noticed from the contents of the



complaint petition and protect –cum- complaint petition, that only for the purpose of making out case that Nawada Court had also jurisdiction, certain statements have been made, which, in my view, do not constitute offence under Section 364 of the Indian Penal Code. The present application, seeking setting aside of the impugned order, in my opinion, is frivolous and ill-advised.

This application is accordingly dismissed.

**(Chakradhari Sharan Singh, J.)**

Prabhakar Anand/-

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