

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.27005 of 2016

Arising Out of PS.Case No. -555 Year- 2011 Thana -PATNA COMPLAINT CASE District-
PATNA

- =====
1. Pramila Devi wife of Umesh Prasad Mandal
 2. Umesh Prasad @ Umesh Prasad Mandal son of Late Ramji Pd. Mandal
 3. Mohan Singh son of Late Rajendra Singh
 4. Bihari Son of Mohan Singh
 5. Zero Kumar @ Zero son of Umesh Prasad Mandal
 6. Mungeri Kumar son of Umesh Prasad Mandal
 7. Chotu Kuma @ Chotu son of Umesh Prasad Mandal
 8. Pinki Devi wife of Mohan Singh
 9. Rinki Devi wife of Bihari All resident of Daroga Prasad Rai Path,
Opposite R.O Office, P.S.- Kotwali, District- Patna

.... Petitioner/s

Versus

1. The State of Bihar.
2. Urmila Devi wife of Rajan Ram resident of Daroga Prasad Rai Path,
P.S. Kotwali, District- Patna.

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Rajendra Kumar Jain, Advocate

For the Opposite Party/s : Mr. Smt. Suman Kumari Singh, APP

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CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH

ORAL ORDER

06/ 03-05-2017

Heard learned counsel for the petitioners and

Mr. J.N. Thakur for the State.

The present application has been filed for quashing the order dated 18.06.2012 passed by learned Judicial Magistrate, Ist Class, Patna in Complaint Case No. 555(C) of 2011, whereby process has been directed to be issued after cognizance being taken for the offences punishable under Sections 323, 504 and 379 of the Indian Penal Code.



It is submitted by learned counsel for the petitioners that the accusation has maliciously been levelled by the neighbour of the petitioners. The petitioner No. 2 filed Patna Kotwali P.S. Case No. 69 of 2011 with accusation under Sections 341, 323, 504 and 307/34 of the Indian Penal Code against the husband of the complainant and other family members and thereafter the present complaint has been lodged.

Learned counsel for the petitioners, at present, confines his prayer only to the extent of disposing of the present application with a direction to learned trial court to expedite the trial.

The impugned order dated 18.06.2012 was challenged after four years on 29.06.2016. Moreover, at the stage of exercising jurisdiction under Section 190(1)(a) Cr.P.C. the learned Magistrate has only to see the prima facie case. A useful reference may have to the case of Sonu Gupta Vs. Deepak Gupta & Ors., 2015(2) PLJR (SC) 321. Paragraph no. 7 reads as:-

“Having considered the details of allegations made in the complaint petition, the statement of the complainant on solemn affirmation as well as materials on which the appellant placed reliance which were called for by the learned Magistrate, the learned Magistrate, in our considered opinion, committed no error in summoning the accused



persons. At the stage of cognizance and summoning the Magistrate is required to apply his judicial mind only with a view to take cognizance of the offence, or, in other words, to find out whether prima facie case has been made out for summoning the accused persons. At this stage, the learned Magistrate is not required to consider the defence version or materials or arguments nor he is required to evaluate the merits of the materials or evidence of the complainant, because the Magistrate must not undertake the exercise to find out at this stage whether the materials will lead to conviction or not.”

Moreover, the impugned order was passed on 18.06.2012 but there is nothing on record to suggest the present stage of the case.

Hence, this application is disposed of with liberty to the petitioner to raise all the contentions at the appropriate stage of proceeding.

(Dinesh Kumar Singh, J)

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