

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.16095 of 2013

Arising Out of PS.Case No. -1430 Year- 2009 Thana -SIWAN COMPLAINT CASE District-
SIWAN

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Ram Narain Sah, S/O Shri Ram Ashish Sah, Sub- Inspector Posted At P.S.- Asawn,
Distt.- Siwan

.... Petitioner/s

Versus

1. The State of Bihar
2. Johna Devi, W/O Raghunath Bhagat, Resident of Village- Mania, P.S.- Asawn,
Distt.- Siwan

.... Opposite Party/s

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Appearance :

For the Petitioner/s	:	Mr. S. Kumar, Advocate. Mr. N.K.P.Sinha, Advocate.
For the Opposite Party No.2	:	Mr. Raghov Prasad, Advocate.
For the State	:	Mr. Dashrath Mehta, APP

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CORAM: HONOURABLE MR. JUSTICE RAJENDRA KUMAR MISHRA

ORAL JUDGMENT

Date: 10-02-2017

Heard learned counsel for the petitioner and the learned
counsel for the opposite party no. 2.

2. This application, under Section 482 of the Code of
Criminal Procedure, is directed against the order dated 14.10.2009
passed in Complaint Case No. 1430 (C) of 2009, Trial No. 1306 of
2009, whereby the Judicial Magistrate Ist Class, Siwan, summoned
the accused-petitioner, on inquiry, under Section 204 of the Cr.P.C.,
finding the prima facie case, under Sections 323, 447 and 504 of the
Indian Penal Code.

3. Learned counsel for the petitioner submits that, on
23.06.2009, petitioner was posted as Sub-Inspector of Asaon Police
Station. On receiving secret information about the presence of



Raghunath Bhagat, husband of opposite party no. 2, wanted in Asaon P.S. Case No. 8 of 1998, Asaon P.S. Case No. 14 of 2000, Andar P.S. Case No. 70 of 2000, Case No. 2 of 1994, Andar P.S. Case No. 1 of 1994, Asaon P.S. Case No. 3 of 2000 and Asaon P.S. Case No. 15 of 2001 in his village Mania, District Siwan, he along with other police officials reached there. Raghunath Bhagat, husband of opposite party no. 2 was found playing cards near the house of Raktu Sah and Raghunath Bhagat was apprehended. At that time, about 100 women, children and male persons surrounded the police official and attacked on them and got set free to Raghunath Bhagat. Regarding the said occurrence, Asaon P.S. Case No. 15 of 2009 was instituted for the offence under Sections 147, 148, 149, 323, 307, 353, 224 and 225 of the Indian Penal Code and Section 27 of the Arms Act on the basis of written report of A.S.I., Ashok Kumar Sinha, against Raghunath Bhagat, his wife opposite party no. 2 and others. In counter blast and to save the skin, opposite party no. 2, wife of accused Raghunath Bagat, lodged the Complaint Case No. 1430 (3) of 2009 with false allegation of loot and causing assault entering in the house by the police personnel in the court of Chief Judicial Magistrate, Siwan on 27.06.2009, in which, petitioner and other police personnel have been summoned illegally, on enquiry, under Section 204 of the Cr.P.C.

4. Learned counsel for the opposite party no. 2 submits that the learned Judicial Magistrate Ist Class, has rightly



summoned the petitioner and other accused named in complaint petition under Section 204 Cr.P.C., on enquiry, in complaint petition but he was not disputed about lodging the Asaon P.S. Case No. 15 of 2009 on the basis of written report of A.S.I., Ashok Kumar Sinha, against complainant/opposite party no. 2 and others for the offence under Sections 147, 148, 149, 323, 307, 353, 224 and 225 of the Indian Penal Code and Section 27 of the Arms Act.

As such, filing of the Complaint Case No. 1430 (3) of 2009 in the court of Chief Judicial Magistrate, Siwan, by the opposite party no. 2, in which, the petitioner and others named in the complaint petition have been summoned through the impugned order, on enquiry, for the offence under Sections 323, 447 and 504 of the Indian Penal Code, appears to be malicious. Accordingly, the entire proceeding including the impugned order dated 14.10.2009 passed by the Judicial Magistrate Ist Class, Siwan, in Complaint Case No. 1430 (C) of 2009, is quashed.

5. Accordingly, this application is allowed.

(Rajendra Kumar Mishra, J)

Bhardwaj/-

AFR/NAFR	
CAV DATE	
Uploading Date	
Transmission Date	

