

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.34426 of 2014

Arising Out of P.S.Case No. -2367 Year- 2010 Thana -PATNA COMPLAINT CASE District-
PATNA

- =====
1. Ramjiwan Singh , Son of late Mohit Singh .
 2. Rita Devi , wife of Ramjiwan Singh.
 3. Nilam Devi @ Munni , daughter of Ramjiwan Singh. All resident of village Shiv Nagar , Bus Stand , Nurmohiddinpur P.S Parsa Bajar , District Patna .

.... Petitioners

Versus

1. The State of Bihar
2. Manoj Kumar , son of Sri Ram Jiwan Singh, resident of Mohalla- Shiv Nagar , Bus Stand , (Nurmohiddinpur) Police .Station Parsa Bajar , District Patna at present resident of mohalla - Gay ghat Golambar Danka Imli , Post office - Gulzarbagh , Police Station - Alamganj , District - Patna .

.... Opposite Parties

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Appearance :

For the Petitioners	:	Mr. Dhananjay Prasad, Advocate
For the Opposite Party No.2	:	Mr. P.K.Chaurasia, Advocate
For the State	:	Mr. Manoj Kumar, APP

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CORAM: HONOURABLE MR. JUSTICE SANJAY KUMAR

ORAL JUDGMENT

Date: 28-07-2017

Heard.

2. This application under Section 482 of the Cr.P.C. has been filed to quash the order 24.07.2013 passed by Judicial Magistrate Ist Class, Patna in Complaint Case No.2367 of 2010 whereunder the learned Magistrate finding prima-facie case for the offence under sections 342 and 379 of the IPC summoned the petitioners.

3. It has been submitted that the petitioners are parents and sister of Opposite Party No.2. The complainant is an agent in LIC and his wife is a lawyer in Civil Court, Patna. The complaint along with his wife is residing at Patna City quite unconcerned with the affairs of the petitioners. The Opposite Party No.2 had filed Parsa Bazar P.S.Case No.182 of 2009 for the offence under



sections 380, 323, 2341, 342, 448, 506 and 504/34 of the IPC. The matter was investigated and the police submitted final form as case untrue and recommended to initiate proceeding under Sections 182/211 IPC. The wife of Opposite Party No.2 had filed a police case vide G.R.No.1425 of 2004 against the petitioners for the offence under section 498A of the IPC and 3/4 of Dowry Prohibition Act. The said case was compromised and petitioners were acquitted on 24.04.2007. The main dispute relates to landed property which was acquired by petitioner no.1 in his own name. The Opposite Party No.2 has filed several cases for taking share in the property which are presently in possession of the petitioners. He has filed a Partition Suit No.19 of 2008 which is pending in the Court of Munsif-Ist, Patna. The allegation of wrongful confinement of Opposite Party No.2 and his wife and committing theft of their property is omnibus and allegation has been found untrue by the investigating officer. It has also been submitted that there is no progress in the trial and the petitioners are being unnecessary harassed by the Opposite Party No.2 and his wife by filing case after case. The learned court below has passed the order in mechanical manner on the basis of protest petition and so the impugned order is fit to be quashed. The learned APP on the other opposed the submission.

4. On perusal of protest petition on record and annexures which are annexed with this application, I find that the petitioners are parents and sister of the Opposite Party No.2. The Opposite Party No.2 and his minor son have filed a title Partition Suit no.19 of 2008 against the petitioners. In the said suit the Opposite Party No.2 has claimed one third share. His wife had filed case against this petitioner for the offence under section 498A IPC which ended in acquittal of these petitioners. The allegations of committing theft and wrongful confinement of the Opposite Party No.2 and his family members do not find support from the



material collected in course of inquiry as it appears from the police report. There are contradictions also in the statement of witnesses examined at the time of enquiry. In such circumstance, the criminal prosecution of the petitioners in face of pending civil suit for partition would be an abuse of the process of the Court which cannot be sustained.

5. In view of above facts, the order taking cognizance as well as criminal prosecution of the petitioners stands quashed. This criminal application is accordingly, allowed

(Sanjay Kumar, J)

B.Kr./-

AFR/NAFR	NAFR
CAV DATE	
Uploading Date	01.08.2017
Transmission Date	01.08.2017

