

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.15441 of 2013

Arising Out of PS.Case No. -1320 Year- 2010 Thana -MUNGER COMPLAINT CASE District-
MUNGER

=====

1. Abhijeet Kumar S/O Sri Prasant Kumar Electrical Executive Engineer, Electric Supply Division, Munger, P.S.- Kasim Bazar, District- Munger; At Present - Electrical Superintending Engineer, Head Office- Bihar State Power Holding Company Ltd., P.S.- Kotwali, At Patna

2. Baliram Singh S/O Sri Bhuneshwar Singh Electrical Superintending Engineer, Electric Supply Circle, Munger; At Present Electrical Superintending Engineer, North Bihar Power Distribution Company Ltd., Saharsa

.... Petitioner/s

Versus

1. The State Of Bihar

2. Smt. Anita Devi W/O Prabhakar Prasad Resident Of Refugee Colony, P.S.- Kotwali, District- Munger

.... Opposite Party/s

=====

Appearance :

For the Petitioner/s : Mr. Suraj Narain Yadav, Advocate.

For the Opposite Party/s : Mr. Nand Kumar APP.

=====

CORAM: HONOURABLE MR. JUSTICE KISHORE KUMAR MANDAL

ORAL JUDGMENT

Date: 20-04-2017

Heard Mr. S.N.Yadav for the petitioners, Mr. Ajit Kumar Singh for the complainant and Nand Kumar APP for the State.

2. The two petitioners herein, during the relevant date of occurrence, were functioning as Electrical Executive Engineer and Electrical Superintending Engineer of the Electricity Department respectively at Munger. They have assailed the order taking cognizance dated 02.04.2011 passed on the complaint lodged by opposite party no.2 wherein the learned Magistrate, on conclusion of enquiry made into the complaint found it a *prima facie* case under Sections 323,504 of the IPC and issued processes.



3. As per the complaint (Annexure-1), on the relevant date these two petitioners had come to the house of the complainant against whom there was huge outstanding dues of the electricity department. It is further alleged that they broke the seal of the electric meter installed in the premises of the complainant. Further allegation is that they abused, caught hold of the hand of the complainant and pushed her on the ground. On these allegations, the complaint was lodged on 14.12.2010 in relation to the occurrence that had taken place on 27.11.2010.

4. Mr. Yadav, counsel for the petitioner, placed the entire complaint wherefrom it appears that the complainant herself has stated that in relation to the incident that had occurred on 27.11.2010 she lodged a complaint with the police authority with a copy thereof to the Superintendent of Police. Thereafter on 29.11.2010 a request was made to the Assistant Electrical Engineer of the Electricity Department for re-sealing of the electric meter installed in the house of the complainant. The copy of the said application has been enclosed at Annexure-3. The department promptly replied on 1.12.2010 (Annexure-4) requesting the complainant to file a declaration to this effect whereafter re-sealing of the electric meter shall be made. In the said communication, the Assistant Electrical Engineer had also stated that the complainant had wrongly /falsely made allegation against the senior officials of the department. Actually, a team of the Electricity Department had



visited your premises in connection with the long outstanding dues of the Electricity Department. It is submitted that in Annexure-3 which is the complaint lodged before the police authority by the complainant there is no allegation with regard to abusing her and pushing her on the ground. On the strength of the aforesaid, it has been submitted that the complaint lodged by the complainant was for ulterior reasons to rope in senior officials of the department. He also submits even accepting the allegations made in the complaint to be true, *argumenti causa*, no offence under Section 504 of the IPC is made out. In his submissions the continuance of the present criminal proceeding is sheer abuse of the process of the Court.

5. Mr. Ajit, on the other hand, appearing for the complainant, submits that the defence of the petitioner would not be considered in this proceeding. The allegation is that these petitioners not only abused her but also pushed her on the ground. Mr. Yadav submits that the petitioners are remorseful for the inconvenience, if any, caused to the complainant by the petitioners in due discharge of their official duty.

6. It is admitted in the complaint petition itself that in relation to the occurrence, the complainant had first filed a complaint before the police authority. It is found from Annexure-2 that no such allegation was leveled against the petitioner in the said complaint. The Court is mindful that the petitioners were then functioning as Senior officials in the Electric Circle. Normally, a team of electric



department staff goes to conduct such raid. On close perusal of the averments made in the complaint, in the considered view of the Court, no offence under Section 504 of the IPC is made out.

7. Be that as it may, considering the background in which the prosecution was launched and the sorrowfulness shown by the petitioners in course of hearing of the application, in my view, the continuance of the criminal proceeding would be complete miscarriage of justice. The ends of justice shall be sub-served if the present criminal proceeding is consigned.

8. Consequently, the application is allowed. The order dated 02.04.2011 passed by Judicial Magistrate, Ist Class, Munger in Complaint Case No. 1320C/2010 is set aside.

9. No order as to costs.

(Kishore Kumar Mandal, J)

Shyam/-

AFR/NAFR	NAFR
CAV DATE	N/A
Uploading Date	25/4/2017
Transmission Date	25/4/2017

