

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.47719 of 2013

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1. Manoj Kumar Rajak Son Of Badri Narayan Rajak Resident Of Village- Bourha, P.S.- Karjain Bajar, District- Supaul.
 2. Sanjay Kumar Son Of Badri Narayan Rajak Resident Of Village- Bourha, P.S.- Karjain Bajar, District- Supaul.
 3. Badri Narayan Rajak Son Of Late Ramjee Rajak Resident Of Village- Bourha, P.S.- Karjain Bajar, District- Supaul.
 4. Amerika Devi Wife Of Badri Narayan Rajak Resident Of Village- Bourha, P.S.- Karjain Bajar, District- Supaul.
 5. Upendra Rajak @ Bucchi Rajak Son Of Mishri Lal Rajak Resident Of Village- Bourha, P.S.- Karjain Bajar, District- Supaul.

.... Petitioner/s

Versus

1. The State Of Bihar
2. Raj Narayan Safi Son Of Satya Narayan Safi Resident Of Village- Manganpatti, P.S.- Lokahi, District- Madhubani.

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mrs. Soni Shrivastava
Mrs. Madhuri Kumari, Advocate
Mr. Amit Prakash, Advocate
Mr. Priya Gupta, Advocate

For O.P. No. 2 Mr. Ashok Kumar Prasad

For the State : Mr. Matloob Rab (App)

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CORAM: HONOURABLE MR. JUSTICE JITENDRA MOHAN SHARMA
ORAL ORDER

3 02-05-2017 The instant Criminal Miscellaneous has been filed for quashing the order dated 03.03.2013 passed by the Additional Chief Judicial Magistrate, Jhanjharpur whereby and whereunder after finding prima-facie case, summons were issued against the petitioners for the offences under Sections 342, 323, 504 and 379



of the Indian Penal Code in connection with C.R. No. 701/12 Trial No. 03 of 2012.

Heard the learned counsel for the petitioners, the learned A.P.P. for the State and the learned counsel for the complainant.

At the outset it has been submitted that this case is counter blast of a case lodged under Section 498 -A IPC by Manoj Kumar Rajak wherein, allegation has been levelled that the father and other family members of the victim girl took away ornaments and also the victim girl Sarita Devi and it is possible that they may kill her and may make the dead body traceless. Earlier the accused persons put pressure to execute the sale deed in favour of Sarita Devi for movable and immovable property and due to refusal, the accused persons have committed the crime. It is further submitted that the case under Section 498-A IPC bearing Loukahi P.S. Case No. 80 of 2012 has been settled and at present Sarita Devi and her husband are living together and, as such, this case should not be continued.

The learned counsel for O.P. No. 2 submits that he has got no instruction regarding settlement of dispute as client is not in touch with him.

On behalf of the petitioners, reliance has been placed



upon the judgment reported in **2011 (1) PLJR Sc 23 Manoj Mahadev Prasad Khaitan Vs. Ram Gopal Poddar and anothers**

It is submitted that in similar and identical case, the Hon'ble Apex Court has quashed the criminal proceeding, here also the prosecution story, as made out in the complaint petition, appears absurd and mala fide and issue of process will be the abuse of process of law and the process of court.

Having considered the submissions made at the bar and also noticing that petitioner no. 1, brother of Sarita Devi had filed Loukahi P.S. Case No. 80 of 2012 for the offence under Sections 498-A, 341, 323, 494, 504 and 506/34 of the Indian Penal Cde and thereafter this complaint case has been filed making counter allegation against the relative of Sarita Devi inclding the informant of Loukahi P.S. Case No. 80 of 2012. Relying on the decision of the Apex Court in Manoj Mahadev Prasad Khaitan (Supra) I am also of the view that the order dated 02.02.2013 passed by learned Additional Chief Judicial Magistrate, Jhanjharpur taking cognizance under Sections 342, 323, 504 and 379 IPC against the petitioners in C.R. No. 701 of 2012, Trial No. 03 of 2012 will be misuse of the process of the court and also misuse of the law.

In the result, the order dated 02.02.2013 is hereby quashed and the entire criminal proceeding in C.R. No.701 of



2012 is also quashed.

This criminal miscellaneous application is allowed.

(Jitendra Mohan Sharma, J)

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