

**IN THE HIGH COURT OF JUDICATURE AT PATNA**

**Criminal Miscellaneous No.14516 of 2014**

Arising Out of PS.Case No. -2349 Year- 2012 Thana -SIWAN COMPLAINT CASE District-  
SIWAN

- =====
1. Ranjit Kumar Sinha Son Of Ranjan Kumar Sinha
  2. Ranjan Kumar Sinha Son Of Late Tej Bhadur Lal
  3. Nira Devi Wife Of Ranjan Kumar Sinha.
  4. Sanjit Kumar Sinha Son Of Ranjan Kumar Sinha
  5. Amit Kumar Sinha Son Of Ranjan Kumar Sinha
  6. Ajit Kumar Sinha Son Of Ranjan Kumar Sinha
  7. Nitu Devi Daughter Of Ranjan Kumar Sinha
  8. Nahni Kumari Daughter Of Ranjan Kumar Sinha
  9. Sapna Kumari Daughter Of Ranjan Kumar Sinha 1 To 9 Resident Of Village-  
Bashantpur, P.S- Bashantpur, District- Siwan
  10. Ranjan Kumar Son Of Suresh Prasad Srivastava R/O Mohalla- Srinagar Siwan,  
P.S- Siwan Muffsil, District- Siwan.

.... .... Petitioner/s

Versus

1. The State Of Bihar
2. Rita Devi W/O Late Satish Kumar Sinha R/O Village Majhwaliya, P.S- Siwan  
Muffasil, District- Siwan.

.... .... Opposite Party/s

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**Appearance :**

For the Petitioner/s : Mr. Anil Chandra, Advocate  
For the Opposite Party/s : Mr. Sanjay Kumar, A.P.P.

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**CORAM: HONOURABLE MR. JUSTICE ARVIND SRIVASTAVA**  
**CAV JUDGMENT**

**Date: 11-04-2018**

Heard learned counsel for the parties.

This application under Section 482 of the Code of Criminal Procedure has been filed by the petitioners for quashing of order dated 06.01.2014 passed by the learned Judicial Magistrate, 1<sup>st</sup>, Class, Siwan in Complaint Case No. 2349 of 2012 whereby the learned court below took cognizance against the petitioners under Sections 498A, 304B and 120B of the Indian Penal.



The brief facts of this case is that the marriage of daughter of complainant was solemnized with one Ranjit Kumar Sinha, petitioner No.1, on 09.07.2008. It is alleged that in the marriage, several demand were made by the petitioners such as Rs. 5,00,000, one motorcycle, and gold jewelry of 10 Bhar, furniture and other articles and out of which Rs. 2,00,000/- and other articles were given at the time of Tilak ceremony. Thereafter marriage was solemnized and when the daughter of the complainant went to her sasural, the petitioners have demanded rest Rs. 2,00,000/- and non fulfillment of the same, she was subjected to torture and assault regularly by the accused persons, resultantly, a unborn baby died in the womb of the daughter of the complainant. On 27.08.2012 when the complainant got information that her daughter sustained injury and she has been taken to P.M.C.H. for treatment, relatives of the complainant went there but no one traced. Thereafter, the son of the complainant informed her that her daughter died due to head injury. Hence, the complainant suspected that the accused persons have killed her daughter by inflicting injury on the head and lodged the complaint case against the petitioners.

Learned counsel for the petitioners has submitted that the petitioners are innocent and have not committed any offence. As a matter of fact, prior to lodging of the complaint, an F.I.R. has been



lodged bearing Bhagwanpur P.S. Case No. 160 of 2012 alleging therein that while the petitioner No.1 was going on motorcycle along with his wife for her treatment, one cycle driver came and dashed in the motorcycle of the petitioner No.1, resultantly they fell down and both of them sustained injuries and wife sustained severe head injury. The petitioner has tried his level best to provide treatment to her wife but she succumbed before injury and died in the way, this fact is evident from Annexure-3 itself. The deceased was under treatment of Dr. Sangita Choudhary is evident from Annexure-4. Moreover, the I.O. has investigated the case and submitted charge sheet under Section 279, 337, 304A of the Indian Penal Code against unknown bicycle driver, which is evident from Annexure-5. It has further been submitted that the complaint of the complainant was dismissed vide order dated 20.01.2013/21.01.2013 by the learned Judicial Magistrate-1<sup>st</sup> Class, Siwan on the basis of report of the police, which is evident from Annexure-6. Being aggrieved by the order dated 20.01.2013.21.01.2013, the opposite party No.2 filed a challenged the said order in Criminal Revision No. 32 of 2013 and learned 2<sup>nd</sup> Additional District and Sessions Judge, Siwan has been pleased to set aside the order in question with direction to pass a fresh order after examination of all witnesses, which is evident from Annexure-7. Thereafter, the learned Magistrate took cognizance for



the offence under Section 498A, 304B and 120B of the Indian Penal Code against the petitioners. On the above ground, it is submitted that the cognizance order dated 06.01.2014 passed by the learned Judicial Magistrate, 1<sup>st</sup>, Class, Siwan, is bad in law and is fit to be quashed.

Considering the materials available on record and the facts and circumstances of the case, this Court finds substance in the submissions advanced on behalf of the petitioners and agrees with the same. In the present case, the petitioner has already shown his bona fide by lodging the F.I.R. bearing Bhagwanpur P.S. Case No. 160 of 2012 prior to lodging of the instant complaint. In view of the aforesaid facts, the allegation leveled against the petitioners appears to be general and omnibus and based on mere suspicion, which itself shows the mala fide intention of the complainant to harass the petitioners only, therefore, the prosecution of the petitioners appears to be a malicious prosecution in view of the judgment rendered by the Hon'ble Supreme Court in the case of ***State of Haryana Vs. Bhajan Lal***, reported in ***1992 Suppl (1) SCC 335***. Relevant extract of paragraph 102 of the aforesaid judgment is quoted herein-below for ready reference;

*“ In the backdrop of the interpretation of the various relevant provisions of the Code under Chapter XIV and of the principles of law enunciated by this Court in a series of decisions relating to the exercise of the*



*extraordinary power under Article 226 or the inherent powers under Section 482 of the Code which we have extracted and reproduced above, we give the following categories of cases by way of illustration wherein such power could be exercised either to prevent abuse of the process of any Court or otherwise to secure the ends of justice, though it may not be possible to lay down any precise, clearly defined and sufficiently channelised and inflexible guidelines or rigid formulae and to give an exhaustive list of myriad kinds of cases wherein such power should be exercised:(1)-(6) .....*

*(7) Where a criminal proceeding is manifestly attended with mala fide and/or where the proceeding is maliciously instituted with an ulterior motive for wreaking vengeance on the accused and with a view to spite him due to private and personal grudge.”*

In view of the discussions made above, the order taking cognizance dated 06.01.2014 passed in Complaint Case No. 2349 of 2012 by the Judicial Magistrate, 1<sup>st</sup>, Class, Siwan, whereby and whereunder cognizance has been taken against the petitioners for the offence under Sections 498A, 304B and 120B of the Indian Penal Code, is not sustainable in the eye of law. It is, therefore, quashed.

This application is, accordingly, allowed.

**(Arvind Srivastava, J)**

Brajesh/-

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