

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.45774 of 2014

Arising Out of PS.Case No. -1057 Year- 2013 Thana -DARBHANGA COMPLAINT CASE
District- DARBHANGA

- =====
1. Manjay Kumar @ Manjay Thakur,
 2. Sanjay Sharma @ Rakesh Kumar Ranjan, both sons of Kishori Sharma,
 3. Kishori Sharma @ Kishori Thakur, s/o late Balchand Thakur,
 4. Braj Kishor Thakur, S/o Yogendra Thakur, all residents of village - Mednipur,
P.S. - Nanpur, District- Sitamarhi.

.... Petitioner/s

Versus

1. The State of Bihar.
2. Shatrughna Thakur, S/o Late Sito Thakur, resident of village - Kumrauli, P.S. -
Simri, District- Darbhanga.

.... Opposite Party/s

=====

Appearance :

For the Petitioner/s : Mr. Bauye Jee Jha, Advocate

For the Opposite Party/s : Mr. Anil Pd. Singh, APP

Mr. Prabhat Kumar Singh, Advocate

=====

CORAM: HONOURABLE MR. JUSTICE SANJAY PRIYA

ORAL JUDGMENT

Date: 03-04-2018

This application under Section 482 of the Code of Criminal Procedure has been filed for quashing the order dated 10.04.2014 passed by the Judicial Magistrate, 1st class, Darbhanga, in Complaint CR No.1057 of 2013 by which the learned Magistrate after holding enquiry has found *prima facie* case against the petitioners for the offence under Section(s) 406, 420, 120-B Indian Penal Code.

It is alleged in the Complaint Petition that petitioner no.1 assured the Complainant and other accused persons, as mentioned in the Complaint Petition, to make arrangement for their job in Dubai and on such assurance the Complainant and other



persons made payment of Rs.6,30,000/- to accused no.1 (petitioner no.1) in presence of petitioner no.2. It is alleged that when Visa was not given, then Complainant went to enquire into the matter and the accused persons gave threat. It is further alleged that on 19.05.2013, the Complainant went to the house of accused persons where accused nos.1, 2 and 3 were also present. They all said that they will not return the money and also abused the Complainant. Thereafter, complaint was filed.

The Court below after holding enquiry on the basis of S.A. and statement of witnesses has found *prima facie* case against the petitioners for the offence under Section(s) 406, 420, 120-B Indian Penal Code.

Counsel for the petitioners has submitted that petitioner no.1 was not present on the date of occurrence as he was in Dubai on the relevant date. Counsel for the petitioners has further submitted that petitioner nos.2, 3 and 4 have not received any money.

From the Complaint Petition, this Court finds that there is allegation against petitioner nos.1, 2 and 3 of taking money of Rs.6,30,000/- from the Complainant and other persons as named in the Complaint Petition for providing Visa to go to Middle East country. They did not return the money when Visa was not issued. They gave threat to the informant and misbehaved with him.

The Court below is only required to see *prima facie*



case at the stage of enquiry under Section 202 Cr. P. C.

In view of such, this Court does not find any illegality in the impugned with respect to petitioner nos.1, 2 and 3.

So far as allegation against petitioner no.4 is concerned, this Court does not find any allegation of specific overt act against him.

Accordingly, the impugned order dated 10.04.2014 passed by the Judicial Magistrate, 1st class, Darbhanga, in Complaint CR No.1057 of 2013 along with entire criminal proceeding with regard to petitioner no.4 is hereby quashed.

The Court below will proceed with the trial against petitioner nos.1, 2 and 3 in accordance with law.

The petitioner nos.1, 2 and 3 are given liberty to raise all the points, as raised in the present application, at the time of framing of Charge, which shall be considered and disposed off by the Court below in accordance with law without being prejudiced by this order.

This application is, accordingly, allowed in part.

(Sanjay Priya, J)

J.Alam/-

AFR/NAFR	NAFR
CAV DATE	N/A
Uploading Date	11-04-2018
Transmission Date	11-04-2018

