

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.38601 of 2014

Arising Out of PS. Case No.-125 Year-2012 Thana- AURANGABAD COMPLAINT CASE
District- Aurangabad

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Pushpa Devi wife of Ajay Mishra resident of Village - Tunda, Police Station -
Amba, District - Aurangabad.

... .. Petitioner/s

Versus

1. The State of Bihar.
2. Shambhu Sharan Prasad Verma Son of Late Suryadeo Singh resident of
Mohalla - Yamuna Nagar, P.S. - Aurangabad (Town), District - Aurangabad.

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Rakesh Singh, Advocate
For the Opposite Party/s : Mr. Sucheta Yadav(App)

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CORAM: HONOURABLE MR. JUSTICE S. KUMAR
ORAL JUDGMENT

Date : 25-04-2018

Heard learned counsel for the parties.

2. This petition under Section 482 of Code of Criminal Procedure has been filed for quashing order dated 11.12.2012 passed by Judicial Magistrate, 1st Class, Aurangabad in complaint Case No. 125/12 (Trial No. 2233/2012) by which cognizance under Section 341, 323, 406, 379 of I.P.C. has been taken against petitioner as well as order dated 02.08.2014 passed by learned Sessions Judge, Aurangabad in Criminal Revision No. 12 of 2013 dismissing the revision filed by petitioner.

3. Complainant opposite party No. 2 had filed a complaint case against petitioner alleging therein that on 10.02.2012 at



about 7.00 AM he had gone to the residence of accused Pushpa Devi wife of Ajay Mishra to collect Rs. 2000/- which was due amount for milk purchased by her but she refused to pay the amount and some altercation took place there, upon which Vivek Kumar and Munna Kumar who are tenant in the said premises of Pushpa Devi came outside and abused complainant and told not to create noise in front of his door and thereafter assaulted him by means of lathi danda and complainant fell down, upon which Pushpa Devi took out Rs. 500/- from his pocket.

4. The complainant went to police station but his case was not registered and thereafter on 18.02.2012 he has filed his present complaint case. The complainant was examined on S.A. by the court and in support of his complaint case two enquiry witnesses were also examined by the court and on basis of which the court below took cognizance under Sections 323, 341, 379, 406 of I.P.C. and issued summons to petitioner to appear and face trial. Petitioner thereafter filed criminal revision before the Sessions court against the order taking cognizance but the same was dismissed by order dated 02.08.2014.

5. At the stage of taking cognizance only the averments made in the complaint petition has to be considered by the trial



court and defence of accused cannot be examined at that stage. High Court can interfere in the order taking cognizance if from the reading of complaint petition no offence is made out. However, from going through the complaint petition it cannot be said that no criminal offence is made out, as such, this Court is not inclined to interfere in the order of taking cognizance by the trial court and affirmed by the Sessions Judge under revision.

6. Petitioner is at liberty to raise all the points at the subsequent stage of trial.

7. The present petition is dismissed.

(S. Kumar, J)

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AFR/NAFR	NAFR
CAV DATE	N.A.
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