

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.51665 of 2014

Arising Out of PS.Case No. -66 Year- 2009 Thana -AWTARNAGAR District- SARAN

- =====
1. Shyam Naraian Singh, Son of Late Saryuj Singh
 2. Anand Mohan Singh
 3. Pankaj Kumar Singh

Both sons of Shyam Narain Singh

All are resident of village- Govind Chak, P.S.- Sonpur, District- Saran

.... Petitioner/s

Versus

The State of Bihar

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Kamlesh Kumar, Advocate

For the Opposite Party/s : Dr. Rabindra Kumar, A.P.P.

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CORAM: HONOURABLE MR. JUSTICE SANJAY PRIYA

ORAL JUDGMENT

Date: 26-04-2018

1. This application under Section 482 of the Code of Criminal Procedure has been filed for quashing the order dated 12.03.2013 passed by the learned Chief Judicial Magistrate, Saran at Chapra, in Autar Nagar P.S. Case No. 66 of 2009, G.R. No. 3483 of 2009 by which the learned Magistrate took cognizance against the petitioners and other accused persons for the offence under Sections 431, 454 and 380 of the Indian Penal Code.

2. Heard learned counsel for the petitioners and learned counsel for the State.

3. Learned counsel for the petitioners has submitted that this is a totally false and fabricated case filed by the informant



just to harass the petitioners. Petitioner No. 2 has submitted written report to the police with regard to death of his sister namely, Rubi Kumari, on account of non-fulfillment of demand of dowry, following which, the Police has registered Autarnagar P.S. Case No. 66 of 2009 against the petitioners of this case and his other family members for the offence under Sections 304B and 201/34 of the Indian Penal Code and Police after investigation submitted charge sheet against the accused persons including the informant for the offence under Sections 304(b), 201 and 34 of the Indian Penal Code vide Charge Sheet No. 69 of 2008.

4. In the instant case the informant has alleged that his son Santosh Kumar Singh was married with daughter of petitioner No. 1 namely, Rubi Kumari, according to Hindu rites and customs on 9.3.2008. Rubi Kumari started living with her husband Santosh Kumar Singh. It is alleged that after 15 days of marriage, Santosh Kumar Singh went to Indore, so Rubi Kumari felt unhappy in her sasural. The younger son of the informant went to Indore in the month of June.

5. It is further alleged that petitioner Nos. 1 and 2 came several times for '*Bidaigiri*' of Rubi Kumari. The informant fixed the date of '*Bidaigiri*' of Rubi Kumari on *Raksha Bandhan*. On 16.08.2008 on the occasion of *Raksha Bandhan* petitioner No. 2 came



and took Rubi Kumari with him after getting Rakhi from Rubi Kumari. It is alleged that on 24.08.2008 at about 12:00 p.m. these petitioners and other accused persons as named in the complaint petition, came in the house of the complainant, and petitioner No. 2 enquired from wife of the informant about his sister, upon which, she told that he (petitioner No. 2) has taken Rubi Kumar with him, on which, the accused persons became angry and closed the door of the house and also damaged the articles as mentioned in the First Information Report and removed them and took away on Tempo. Thereafter, villagers gathered there and seen the occurrence. The aforesaid complaint was sent to Police Station under Section 156 (3) Cr. P.C. and Police registered Autarnagar P.S. Case No. 66 of 2009 on 6.10.2009. The police submitted charge sheet against the petitioners, on 25.2.2012, vide Charge Sheet No. 25 of 2012 for the offence under Sections 143, 454 and 380 of the Indian Penal Code. Thereafter, cognizance was taken by the learned Magistrate against the petitioners and other accused persons for the offence under Sections 431, 454 and 380 of the Indian Penal Code by order dated 12.03.2013 which is under challenge in this quashing application.

6. Learned counsel for the petitioners has submitted that the instant case has been filed by the informant merely to save his skin from Autarnagar P.S. Case No. 53 of 2008 (Annexure-5) which



was earlier lodged by petitioner No. 2 against the informant and his other family members for committing murder of sister of petitioner No. 2, Rubi Kumari, in her sasural for non-fulfillment of demand of dowry. Police after investigation, found the case true and submitted charge sheet on 21.11.2008 for the offence under Sections 304B/34 of the Indian Penal Code and cognizance has also been taken against the informant and his other family members by the court below and the informant and his family members are facing trial in that case.

7. From the impugned order it appears that the court below has merely on the basis of statement of witnesses mentioned in different paragraphs of the case diary taken cognizance against these petitioners.

8. Considering the facts and circumstances of the case mentioned above, it appears that the instant case has been filed just as counter blast of the case filed by petitioner No. 2 against the informant and others for the offence under Sections 304B and 201/34 of the Indian Penal Code vide Autarnagar P.S. Case No. 53 of 2008 (Annexure-5) and the Police has submitted charge sheet on 21.11.2008 in that case against the informant and others vide Annexure-6

9. In such circumstances, continuance of the instant proceeding against the petitioners will be abuse of the process of the



court.

10. Therefore, the order dated 12.03.2013 passed by the learned Chief Judicial Magistrate, Saran at Chapra, in Autar Nagar P.S. Case No. 66 of 2009, G.R. No. 3483 of 2009 along with the entire Criminal Proceeding against the petitioners is hereby quashed.

11. This Criminal Miscellaneous application is accordingly allowed.

(Sanjay Priya, J)

S.Ali/-

AFR/NAFR	NAFR
CAV DATE	N.A.
Uploading Date	03/05/2018
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