

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.59727 of 2018

Arising Out of PS.Case No. -488 Year- 2014 Thana -DARBHANGA COMPLAINT CASE District-
DARBHANGA

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1. Manmohan Choudhary Son of late Dhairya Narayan Choudhary
Resident of Village- Jamsom, P.S. Pandaul, District- Madhubani.
2. Pranay Kumar Jha@ Pinku Son of Ramanand Jha Resident of Village-
Bhavanipur, P.S.Pandaul, District- Madhubani.

.... Petitioner/s

Versus

1. The State of Bihar.
2. Dr. Shree Narayan Jha Son of Babu Harinarayan Jha Resident of
Mohalla- Balbhadrapur, P.S. Laheriasarai, District- Darbhanga.

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Vijay Kumar, Adv.
Mr. Mohit, Adv.
For the State : Mr. Sri Jharkhandi Upadhyay, APP
For the Opposite Party : Mr. Sarvesh Pd. Singh, Adv.

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CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

2 27-09-2018 Heard learned counsel for the petitioners and learned
counsel representing the State.

Petitioners in the present case are seeking quashing of
the order dated 22.03.2018 passed by the learned A.C.J.M. VIII,
Darbhanga, in Trial No. 2479 of 2018, C.R. No. 488 of 2018. By
the impugned order the learned A.C.J.M. VIII has been pleased to
reject the prayer of the petitioners to discharge them in connection
with the case in question.

It appears that, the present case has arisen out of a
complaint case being C.R. No. 488 of 2018 brought by the father-



in-law of the daughter of petitioner no.1. A perusal of the complaint petition shows that there are some allegations against these petitioners which were supported in course of enquiry under Section 202 of Cr.P.C. Based on the deposition of the enquiry witnesses, the learned A.C.J.M. took cognizance of the offences under Sections 364/511 of the Indian Penal Code on 02.08.2014 and called upon all these petitioners to face the trial. A Criminal Revision Application challenging the order taking cognizance before the learned Additional District and Sessions Judge III, Darbhanga failed and, thereafter, one Criminal Miscellaneous Application being Cr. Misc. No. 6031 of 2018 was preferred before this Court but the same was also dismissed.

It appears that, in the Court below the complainant has led evidence before charge but these petitioners filed an application seeking their discharge in terms of Section 245 of the Code of Criminal Procedure. The learned A.C.J.M. having gone through the materials available on the record, particularly the deposition of the witnesses would depose in course of evidence before charge took a view that there are sufficient materials to frame charges against these petitioners.

In the aforementioned background, the petition filed by the petitioners was rejected.



Learned counsel representing the petitioners submits that the learned A.C.J.M. could not appreciate that admittedly the daughter of the petitioner no.1 was married to the son of the informant and because of the matrimonial discord which she is facing a large number of litigations have cropped up between the parties. It is submitted that the present case is only an attempt to harass the petitioners who are the father and brother-in-law of Opposite Party No.2.

On the other hand, learned counsel representing the State has opposed the prayer for setting-aside of the impugned order. Learned counsel for the State submits that if the materials available on the record in form of the deposition of the enquiry witness and the deposition of the witnesses who deposed on evidence before charge, this Court, at this stage, would not interfere with the evidentiary value of those deposition. It is submitted that in such circumstance, there are catena of decisions of the Hon'ble Supreme Court to say that the Court will not beholding of the trial of the case.

Having heard learned counsel for the parties and on perusal of the records, particularly, after going through the deposition of the witnesses on evidence before charge, this Court finds that there are allegations against the petitioners of abuse and



assault allegedly committed by them on the complainant. Both the parties are alleging mala fide against each other, however, the Court is of the opinion, that in the given facts of the case, it is not possible to reach to a conclusion at this stage that the prosecution is a result of mala fide intention on the part of the informant. It would be possible only in course of trial to cull out the truth of the evidence which will be recorded by the parties in course of trial.

This Court is not inclined to interfere with the impugned order at this stage, the application is dismissed.

(Rajeev Ranjan Prasad, J)

R.R.Ojha.

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