

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.25767 of 2016

Arising Out of PS.Case No. -2995 Year- 2015 Thana -BEGUSARAI COMPLAINT CSAE District-
BEGUSARAI

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Sisu Devi, Wife of Bhola Choudhary, Resident of village- Hazipur, P.S.- Barauni,
District- Begusarai.

.... Petitioner/s

Versus

1. The State of Bihar.
2. Nilu Devi, wife of Bhuneshwar Choudhary, Resident of village- Hazipur, P.S.-
Barauni, District- Begusarai.

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Sandip Kumar Gautam, Advocate.

For the opposite party No. 2 : Mr. Rais Kr. Sinha, Advocate.

For the State : Mr. Ram Naresh Ray, A.P.P.

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CORAM: HONOURABLE MR. JUSTICE SANJAY PRIYA

ORAL JUDGMENT

Date: 31-08-2018

1. This application under Section 482 of the Code of Criminal Procedure has been filed for quashing the order dated 20.05.2016 passed by Sub Judge-V/A.C.J.M. IV, Begusarai, in Complaint Case No. 2995C of 2015 by which the learned Magistrate after holding enquiry has found *prima facie* case against the petitioner and other accused persons for the offences under Sections 323 and 354 of the Indian Penal Code.

2. In the complaint petition it is alleged that complainant is house wife. She used to live in her house with the family members. It is alleged that on the date of occurrence accused persons entered into the house of the complainant and started abusing



her. The complainant raised objection, then co-accused Bhola Choudhary (husband of the petitioner) in drunken stage started making ugly event. He broke the bangles and torn cloth of the complainant, on account of which, complainant became demoralized. It is further alleged that co-accused Bhola Choudhary snatched golden chain worth Rs.55,000/- from the neck of the complainant. Allegation against the petitioner is that she snatched golden ear-ring worth Rs.15,000/- of the complainant and co-accused Niwas Choudhary took the Box in which clothes and cash of Rs.25,000/- was kept.

3. Heard learned counsel for the petitioner and complainant-opposite party No. 2 as well as State.

4. Counsel for the petitioner has submitted that petitioner is wife of Bhola Choudhary. There is no allegation of any specific overt act against the petitioner either in the complaint petition or in the Solemn Affirmation of the complainant as well as statement of witnesses recorded during enquiry. The court below has in mechanical manner found prima facie case against the petitioner along with other accused persons for the offence under Sections 323 and 354 of the Indian Penal Code. It has further been submitted that prior to filing of the present case, the husband of the petitioner has filed Barauni P.S. Case No. 363 of 2015 dated 01.10.2015 for the offence under Sections 341, 323, 324 and 34 of the Indian Penal Code against



the complainant and other witnesses, in which, charge sheet has already been submitted by the police on 21.10.2015. This case has been filed only to put pressure upon the petitioner.

5. Counsel for the petitioner has further submitted that Title Partition Suit No. 3326 of 2013 has also been filed by husband of the petitioner on 26.11.2013 in which complainant has already appeared as defendant No. 4.

6. Counsel for the opposite party No. 2 has submitted that there is no illegality in the impugned order.

7. Solemn Affirmation of the complainant is available on the back page of complaint petition. The statement of five witnesses recorded during enquiry is also available on record. From perusal of Solemn Affirmation of the complainant and the statement of the witnesses recorded during enquiry, it appears that there is no allegation of any specific overt act against the petitioner. There is no allegation of any specific overt act against the petitioner in the complaint petition also.

8. Therefore, the impugned order dated 20.05.2016 passed by Sub Judge-V/A.C.J.M. IV, Begusarai, in Complaint Case No. 2995C of 2015 along with entire criminal proceeding with regard to petitioner is hereby quashed.

9. This Criminal Miscellaneous application is



accordingly allowed.

10. The court below will proceed with regard to other
accused persons in accordance with law.

(Sanjay Priya, J)

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AFR/NAFR	AFR
CAV DATE	N.A.
Uploading Date	07/09/2018
Transmission Date	07/09/2018

