

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.9637 of 2016

Arising Out of PS.Case No. -55 Year- 2015 Thana -UDAKISHANGANJ District- MADHEPURA

- =====
1. Supirya Kumari @ Smt. Supirya Kumari, W/o Sumit kumar
 2. Sumit Kumar @ Dr. Sumit Kumar, S/o Arbind kumar
 3. Chandrashekhar Yadav @ Chandrashekhar Prasad, S/o late Mukund Yadav
All resident of village- Udakishunganj, Ward No. 5, P.S. Udakishunganj, District Madhepura .
 4. Nikhil Yadav @ Nikhil Kumar, S/o Chandrashekhar Yadav, Resident of village-Rambagh, P.S. Udakishunganj, District Madhepura.

.... Petitioner/s

Versus

1. The State of Bihar.
2. Raj Kumar Ranjan, S/o Braj Bihari Yadav, resident of Village- Udakishunganj College Chowk, Ward No. 11, P.S. Udakishunganj, District Madhepura. At present Head Constable, Office of the Commandant. 12-Batalion, Seema Suraksha Bal (SSB), Post. Kishanganj, Distt. Kishanganj, State Bihar, permanent address, village Mahesua, Post Laxmipur, P.S. Udakishunganj, Distt. Madhepura.

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Nafisuzzoha, Advocate.
For the Opposite Party/s : Mr. S.N. Shukla, A.P.P.

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CORAM: HONOURABLE MR. JUSTICE SANJAY PRIYA

ORAL JUDGMENT

Date: 23-07-2018

1. This application under Section 482 of the Code of Criminal Procedure has been filed for quashing the order dated 3.10.2015 passed by the learned Sub Divisional Judicial Magistrate, Udakishunganj at Madhepura, in Udakishunganj P.S. Case No. 55 of 2015 (G.R. No. 258 of 2015) by which the learned Magistrate took cognizance against the petitioners for the offences under Sections 380, 411, 363 and 366/34 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 victim girl has herself appeared before the court below and gave her statement under Section 164 Cr. P.C. stating that she was tortured by the informant (husband) due to which she went to the house of her maternal grandfather. She was not kidnapped by the petitioners. She has filed Matrimonial Case. The instant case has been filed by the informant (husband) against the family members of the victim girl. because she had filed case against the informant for committing torture with her. It has further been submitted that police has submitted final form in the case. The learned Magistrate after differing with the final form took cognizance against the petitioners.

4. Notice was issued to the opposite party No. 2 who has appeared by filing Vakalatnama, but today none appeared on behalf of the opposite party No. 2 on repeated calls.

5. In the written report the informant alleged that his wife has been kidnapped by the petitioners who are own sister, husband of sister, father and brother of the victim girl.

6. The victim girl has appeared in the court below and has given statement under Section 164 Cr. P.C. stating that she had been tortured by the informant (husband) after marriage. She left the matrimonial house and went to her *Nanihal* because of physical torture committed by the informant (husband) with her. The statement of the victim namely Swati Kumari recorded under Section 164 Cr. P.C. has been enclosed as



Annexure-4. She has also filed Matrimonial Case against her husband (informant) in the Family Court, Madhepura.

7. Police after investigation has submitted final form in the case. The court below took cognizance against the petitioners mentioning that petitioners are family members of wife of the informant. The wife of the informant has herself stated that petitioners have been falsely implicated in the case because she had filed case against her husband (informant) for committing physical and mental torture with her. She has also filed Misc. Case against the informant for her maintenance which is pending in the court of Principal Judge, Family Court, Madhepura.

8. In such Circumstances, the impugned order dated 3.10.2015 passed by the learned Sub Divisional Judicial Magistrate, Udakishunganj at Madhepura along with the entire Criminal proceeding with regard to petitioners, in connection with Udakishunganj P.S. Case No. 55 of 2015 (G.R. No. 258 of 2015), is hereby quashed.

9. This Criminal Miscellaneous application is accordingly allowed.

(Sanjay Priya, J)

S.Ali/-

AFR/NAFR	NAFR
CAV DATE	N.A.
Uploading Date	27/07/2018
Transmission Date	27/07/2018

