

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.19966 of 2016

Arising Out of PS.Case No. -3137 Year- 2015 Thana -BEGUSARAI COMPLAINT CSAE District-
BEGUSARAI

- =====
1. Ram Udgar Sharma, son of late Niras Sharma
 2. Dropadi Devi, wife of Ram Lakhan Sharma
 3. Sita Devi, wife of Birendra Sharma
 4. Manju Devi, wife of Subhash Sharma
 5. Sunita Devi, wife of Mahendra Shara
 6. Neha Devi @ Neha Kumari, daughter of Subhash Sharma
 7. Komal Devi @ Komal Kumari, daughter of Ram Lakhan Sharma
 8. Priyanka Devi @ Priyanka Kumari, daughter of Birendra Sharma
 9. Gayatri Devi @ Gayatri Kumari, daughter of Subhash Sharma
 10. Krishna Devi @ Krishna Kumari, wife of Navin Sharma
- All are resident of Sherpur, P.S. Bhagwanpur, Distt. Begusarai.

.... Petitioner/s

Versus

1. The State of Bihar
2. Shail Devi, wife of late Surendra Sharma, resident of village Sherpur, P.S. Bhagwanpur, Distt. Begusarai.

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Dinesh Maharaj, 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: 30-08-2018

1. This application under Section 482 of the Code of Criminal Procedure has been filed for quashing the order dated 05.02.2016 passed by learned Judicial Magistrate, 1st Class, Begusarai, in Complaint Case No. 3137 of 2015 by which the learned Magistrate after holding enquiry has found *prima facie* case against the petitioners and other accused person for the offences under Sections 147, 323 and 379 of the Indian Penal Code.

2. Heard learned counsel for the petitioners and State.

3. None appeared on behalf of the opposite party No.



2 although his name is appearing in the cause list.

4. In the complaint petition it is alleged that on the date of occurrence while the complainant was in her house, all accused persons entered into the house. It is further alleged that petitioner No. 1 told the complainant that she has committed witch craft on the son of Virendra Sharma, on account of which, he became ill. Petitioner No. 1 also told the complainant to make him well and also gave threat to her. The complainant denied to have done any witch craft act. Thereafter, all the accused persons started assaulting the informant and abusing her. It is further alleged that petitioner No. 1 pulled *Saree* of the complainant on account of which she became naked. Thereafter, petitioner No. 3 directed the accused persons to set her on fire. Petitioner No. 2 brought kerosene oil from the house and poured it over the body as well as in the mouth of the complainant. Petitioner No. 4 lit the match stick, on account of which, the cloth of complainant got burnt. It is also alleged that petitioner No. 5 took away one bucket from the house of the complainant and petitioner No. 6 took away one box containing cloths and ear ring of the complainant value of which comes to Rs.15,000/-.

5. The court below on the basis of allegation in the complaint petition and statement of witnesses has found *prima facie* case against the petitioners named in the complaint petition for the offence under Sections 147, 323 and 379 of the Indian Penal Code.



6. From the allegation in the complaint petition, this Court finds that there is no allegation of any specific overt act against petitioner Nos. 7, 8, 9 and 10. They are villagers of the complainant. Therefore, the impugned order dated 05.02.2016 passed by learned Judicial Magistrate, 1st Class, Begusarai, in Complaint Case No. 3137 of 2015 along with the entire criminal proceeding against petitioner Nos. 7, 8, 9 and 10 are hereby quashed.

7. So far impugned order with regard to petitioner Nos. 1, 2, 3, 4, 5 and 6 are concerned, this court does not find any illegality in the impugned order dated 05.02.2016 passed by learned Judicial Magistrate, 1st Class, Begusarai, in Complaint Case No. 3137 of 2015.

8. The court below is directed to proceed with the case in regard to petitioner Nos. 1, 2, 3, 4, 5 and 6 in accordance with law.

9. This Criminal Miscellaneous application is accordingly allowed in part.

(Sanjay Priya, J)

S.Ali/-

AFR/NAFR	NAFR
CAV DATE	N.A.
Uploading Date	10/09/2018
Transmission Date	10/09/2018

