

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.44675 of 2014

Arising Out of PS.Case No. -734 Year- 2014 Thana -DARBHANGA COMPLAINT CASE District-
DARBHANGA

- =====
1. Manmohan Choudhary, S/o Late Dhairya Narayan Choudhary
 2. Manisha Choudhary, D/o Manmohan Choudhary
 3. Mayank Choudhary, S/o Manmohan Choudhary
 4. Lovely @ Anamika Choudhary, D/o Manmohan Choudhary
 5. Sapna Choudhary, W/o Manmohan Choudhary

All resident of village - Yamsam, P.S. Pandaul, District - Madhubani

6. Randhir Kumar Jha, S/o Late Hareram Jha
7. Abhas Jha, W/o Randhir Kumar Jha, both resident of Mohalla - Balbhadrapur,
P.S. Laheriasarai, Distt. - Darbhanga

.... Petitioner/s

Versus

1. The State of Bihar
2. Sri Narayan Jha S/o Late Harinarayan Jha, resident of Mohalla - Balbhadrapur,
P.S. Laheriasarai, District - Darbhanga

.... Opposite Party/s

=====

Appearance :

For the Petitioner/s : Mr. Madan Prasad Singh, Advocate.

For the State : Mr. M.Daya, APP

For the O.P. No. 2 : Mr. S.P.Singh, Advocate.
Mr. Girish Chandra Jha, Advocate.

=====

CORAM: HONOURABLE MR. JUSTICE ARUN KUMAR

ORAL JUDGMENT

Date: 05-01-2018

Heard learned counsel for the petitioners and learned
counsel for the State as well as learned counsel for the O.P. No. 2.

2. Petitioner seeks quashing of order dated 03.09.2014
passed by the 1st Additional Sessions Judge, Darbhanga in Cr.



Revision No. 374 of 2014 thereby affirmed the order dated 26.06.2014 passed by the Judicial Magistrate in CR No. 734 of 2014 taking cognizance of offence under Sections 323,341 and 392/34 of I.P.C. against the accused persons, petitioners herein.

3. The brief fact, giving rise to the complaint filed by Sri Narayan Jha, O.P. No. 2, against the petitioners, is that on 10.05.2014 at 10:00 A.M. in the morning, while he was returning to his home along with his son Manish Narayan on a motorcycle, all accused persons intercepted on the way, snatched motorcycle and took out Rs. 49,000/- after opening the dickey of the motorcycle which was withdrawn from the bank few days earlier and on the point of dagger one Manmohan Choudahry took out Rs. 15,000/- cash from his pocket. The complainant gave information about the incidence to the police telephonically, thereafter police arrived. The accused persons seeing the police, fled away leaving the motorcycle in nearby lane. The complainant filed application before the A.S.P. at Darbhanga for taking action by lodging the FIR but FIR was not lodged, subsequently this complaint was filed.

4. Learned counsel for the petitioner submits that petitioner no. 2, Manisha Choudhary, the daughter-in-law of Sri Narayan Jha, complainant, was married to his elder son Ashish Narayan Jha in the year 2009 and she filed a police case vide Mahila



P.S.Case No. 40 of 2014 against her husband, father-in-law, present complainant and brother-in-law Manish Narayan Jha under Sections 498A, 494 and other allied sections of the penal code and on account of that both sides are on litigating terms and the present case was filed maliciously to harass the petitioners. The fact alleged in the complaint is also improbable as all family members are said to have committed robbery in the broad-day-light including the daughter-in-law of the complainant. He placed reliance in the case of *State of Haryana & Ors. vs. Ch. Bhajan Lal & Ors.* reported in *AIR 1992 SC 604*.

5. Contrary to that, learned counsel appearing on behalf of O.P. No. 2 submits that this application is not maintainable in view of the fact that petitioners also moved revision application before the Sessions court and on the same fact quashing application is not maintainable. It is also submitted that the only material to be looked into at the stage of taking cognizance is the statement made in the complaint, statement of witnesses adduced at the enquiry stage including the statement of the complainant on solemn affirmation, moreover the witnesses have supported the allegation, so *prima facie* ingredients of the offence is made out.

6. Having considered the rival submissions and on perusal of record, the Court first, issue raised by the other side regarding maintainability, is answered in negative. The jurisdiction



given to the Court under Section 482 Cr.P.C. is much more extensive than the jurisdiction given in this jurisdictional power. The petitioners have moved before the Sessions Court in revision and not before this Court. Section 482 Cr.P.C. gives inherent power to the High Court to make such orders which is necessary to give effect to any order to be passed under the Criminal Procedure Code or any such order to prevent abuse of the process of the court and above all to secure the ends of justice. If it is qualified by the fact that nothing impossible no Section limits or affects the inherent power of the court under its jurisdiction.

7. As far as facts of the present case is concerned, it is an admitted position that petitioner no. 2 is the daughter-in-law of the present complainant and she filed a case under Section 498A of I.P.C. against her husband including father-in-law, only two months prior to institution of the present complaint. Allegation levelled in the complaint is that complainant was returning back on the day keeping Rs. 49,000/- in the dickey of the motorcycle but without any reason, he was moving with the said money keeping it in the dickey of the motorcycle, appears patently absurd as no one moves with such huge amount without any purpose. Moreover, all accused persons are family members of the daughter-in-law including her father, brothers and even the daughter-in-law and committed the act of robbery in the



broad-day-light. The whole allegation seems improbable and absurd rather the present complaint was filed maliciously with a view to wreck personal vengeance due to matrimonial discord between the complainant's daughter-in-law and his son. So in the backdrop of the facts, the Court finds that continuation of the criminal proceeding in the instant matter would be abuse of the process of court, hence the entire criminal proceedings inclusive of the cognizance order dated 26.06.2014 passed by the Judicial Magistrate in CR No. 734 of 2014 as well as revisional order dated 03.09.2014 passed by the 1st Additional Sessions Judge, Darbhanga in Cr. Revision No. 374 of 2014 are set aside.

The application stands allowed.

(Arun Kumar, J)

Sujit/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	19.01.2018
Transmission Date	19.01.2018

