

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.2048 of 2016

Arising Out of PS.Case No. -1382 Year- 2013 Thana -SARAN COMPLAINT CASE District-
SARAN

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1. Harendra Pandit @ Harendra Prasad Son of Late Bharat Pandit
2. Munni Devi Wife of Harendra Pandit Both resident of East Daniyawa
Mishan Road, P.S. Chapra Town, District - Saran

.... Petitioner/s

Versus

1. The State of Bihar
2. Pappu Pandit Son of Late Mohan Pandit Resident of Matukpur, P.S.
Barhara, District - Bhojpur

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Krishna Kant Singh

For the Opposite Party/s : Mr. S.Dayal(App)

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CORAM: HONOURABLE MR. JUSTICE SANJAY PRIYA
ORAL ORDER

6 17-09-2018 Heard the learned counsel for the petitioners as well as
the State.

In spite of issuance of notice on O.P. No. 2, nobody
appeared on his behalf.

The present application has been filed for quashing of
order dated 16.05.2014 passed by learned Judicial Magistrate 1st
Class, Ara in Complaint Case No. 1382C/2013, whereby the court
below has found *prima facie* case for offence under Section 380/34
of the Indian Penal Code.

In the complaint petition, it is alleged that bother of
complainant was married to daughter of Accused nos. 1 and 2, but
she died. Thereafter, accused persons (Petitioners) had filed a case



but due to intervention of well wisher the process of compromise was going on. It is also alleged that during course of compromise accused persons came to house of complainant in the night and after taking meal slept in his house. In the morning, the complainant and his family member got aware that these accused persons were absent from his house. The complainant found missing one suit case containing gold, silver ornaments worth Rs. 50,000/-, cash of Rs. 5,000/- and cloth etc. When the complainant started searching, he learnt from the villagers that they had seen the accused persons going with small bundle towards Keshopur Barhara. When he reached the bus stand he came to know that accused persons had gone away on a jeep.

From the complaint petition itself, it appears that prior to lodging of this case, these petitioners had filed a case against the complainant for offence under Section 304B of the Indian Penal Code.

Learned counsel for the petitioners has submitted that the instant case has been filed just as a counter blast to force the petitioners to withdraw the case filed by them.

This Court after looking into allegation in the complaint petition finds that no *prima facie* offence is made out against the petitioners for the allegation levelled against them in this case.



The court below in mechanical manner on the basis of S.A. of the complainant has found *prima facie* case against the petitioners.

In view of such, the impugned order dated 16.05.2014 passed by learned Judicial Magistrate 1st Class, Ara along with entire criminal proceeding against the petitioners are hereby quashed.

This Criminal Miscellaneous is, accordingly, allowed.

(Sanjay Priya, J.)

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