

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.53538 of 2018

Arising Out of PS. Case No.-29 Year-2018 Thana- GANDHIMAIDAN District- Patna

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1. Manju Devi, W/o Kishun Kumar
 2. Navin Kumar S/o Kishun Kumar, Both R/o vill.- Bhagwatipur Bazar, P.S.- Pandaul, P.O. - Bhagwatipur, District- Madhubani, At present residing of Mohalla- Maharani Colony, House of Arbind Kumar (Shanti Niwas) P.S.- Agamkuan, District- Patna.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Vivekanand Vivek
For the Opposite Party/s : Mr. Md. Sufiyan

CORAM: HONOURABLE MR. JUSTICE PRAKASH CHANDRA JAISWAL

ORAL ORDER

3 12-12-2018 Heard learned counsel for the petitioners and the learned A.P.P. for the State.

The petitioners apprehend their arrest in connection with Gandhi Maidan P.S. Case no. 29 of 2018, registered under Sections 341, 323, 504, 506 and 420/34 of the Indian Penal Code and Section 138 N.I. Act.

Husband of the petitioner Manju Devi namely Kishun Kumar @ Kishun Prasad is said to have executed an agreement to sell out his property in Rs.10 lacs and after receiving the aforesaid sale consideration did not execute the document rather furnished two cheques one of Rs.8 lacs and another of Rs.2 lacs drawn by both the petitioner Manju Devi



and her husband having joint account in the bank which on presentation in the bank was bounced and on demand of money by the informant they extended threatening.

It is submitted by learned counsel for the petitioners that there is no allegation of either executing any document or taking any money against the petitioners. The only allegation against the petitioners is that on demand of money by the informant, they extended threatening to him and besides it the allegation against the petitioner Manju Devi is that she had issued cheque towards refund of money to the informant which was bounced. The aforesaid cheque has been jointly issued by the petitioner Manju Devi and her husband having joint account in the bank and account is operated by her husband. Moreover utmost offence under Section 138 N.I. Act is made out against this petitioner for which complaint petition ought to have been filed after giving required notice within stipulated period of time and not the F.I.R. and F.I.R. filed against this petitioner is not maintainable.

In the facts and circumstances of the case, let the above named petitioners, be released on bail, in the event of their arrest or surrender before the learned Court below within a period of four weeks from today, on furnishing bail bonds of Rs.



10,000/- (Ten thousand) each with two sureties of the like amount each to the satisfaction of the Learned Sub-Judge-XVII cum A.C.J.M., Patna in connection with Gandhi Maidan P.S. Case no. 29 of 2018, subject to the condition as laid down under Section 438 (2) of the Cr.P.C.

(Prakash Chandra Jaiswal, J)

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