

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No. 8769 of 2015

Arising Out of P.S. Case No.-37 Year-2014 Thana- MAHILA P.S. District- Bhagalpur

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1. Krishna Devi, Wife of Surya Narayan Prasad Bhagat.
 2. Surya Narayan Prasad Bhagat, S/o Late Ramchandra Prasad Bhagat.
 3. Chhaya Devi, Wife of Shiv Shankar Prasad Bhagat @ Shiv Shankar Prasad.
 4. Shiv Shankar Prasad Bhagat @ Shiv Shankar Prasad S/o Surya Narayan Prasad Bhagat.
- All residents of Naugachia, Dharmashala Road, P.S. Naugachia, District- Bhagalpur.

... .. Petitioner/s

Versus

1. The State of Bihar
2. Soni Kumari W/o Ravi Shankar Prasad Bhagat, resident of Naugachia, Dharmashala Road, P.S. Naugachia, District- Bhagalpur.

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. Praveen Kumar, Advocate
For the State	:	Mr. Ram Anurag Singh, APP

CORAM: HONOURABLE MR. JUSTICE AHSANUDDIN
AMANULLAH

ORAL JUDGMENT

Date : 06-05-2019

Heard learned counsel for the petitioners and learned
APP for the State.

2. The petitioners have moved the Court under Section
482 of the Code of Criminal Procedure, 1973 for the following
relief:

*“That, this is an application for quashing of
the order dated 6.11.2014, passed in (Mahila P.S.
Naugachia Case No. 37 of 2014 (G.R. No. 895/2014),
registered for the offences under Sections 498(A),
341, 323, 504, 506, 34 I.P.C. (District Bhagalpur),
passed by Sri P.V.S. Parmar, the learned Judicial*



Magistrate, Ist Class, Naugachia, District Bhagalpur, whereby and whereunder the learned Magistrate has taken cognizance against the petitioners for offences punishable under Sections 498A, 341, 323, 504 and 506/34 I.P.C.”

3. The allegation against the petitioners is of assault and torture.

4. Learned counsel for the petitioners submitted that the allegation is general and omnibus and that the petitioners no. 1 and 2 are the mother-in-law and father-in-law whereas petitioner no. 3 is the wife of petitioner no. 4, who is the brother of the husband of the opposite party no. 2.

5. Learned APP submitted that there is allegation of complicity against the petitioners also which has been found to be correct by the police during investigation and for the purpose of taking cognizance, the Court has only to see that *prima facie* case is made out against the accused. It was submitted that in the present case, from the materials before the Court below, it cannot be said that the order impugned taking cognizance is based on *non est* grounds. It was further submitted that the petitioner has full opportunity to present his case at the appropriate stage before the Court below but the present challenge to the order taking cognizance is misconceived.



6. Having considered the facts and circumstances of the case and submissions of learned counsel for the parties, the Court finds substance in the contention of learned APP. As has rightly been submitted by him, the petitioners have full opportunity to present their case before the Court below itself at the time of framing of charge which will be considered by the Court concerned, on its own merits, in accordance with law.

7. For reasons aforesaid, the application stands disposed off with liberty to the petitioners to move before the Court below at the appropriate stage. If the same is done, the Court below shall consider the matter on merits, in accordance with law, without being prejudiced by the present order.

(Ahsanuddin Amanullah, J.)

P. Kumar

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