

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.41663 of 2018

Arising Out of PS. Case No.-48 Year-2013 Thana- MAINATAND District- West Champaran

1. Thakur Prasad @ Thakur Prasad Tyagi, Son of late Baijanath Prasad
2. Dharmendra Kumar Son of Thakur Prasad @ Thakur Prasad Tyagi
Both Residents of Utarwari Pokhra, Ward No. 4 Bettiah, P.S. Bettiah Town,
District- West Champaran.
3. Ram Chandra Sah Son of late Gaya Sah Resident of Village- Rampurwa,
P.S. Mainatand, District- West Champaran.

... Accused ... Petitioner/s

Versus

The State Of Bihar

... ... Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Sanjeev Kumar Shrivastava

For the Opposite Party/s : Mr. Rajkishore Singh

CORAM: HONOURABLE MR. JUSTICE S. KUMAR

ORAL JUDGMENT

Date : 10-12-2019

Heard parties.

2. This criminal miscellaneous petition has been filed under Section 482 of Cr.P.C. for quashing the order dated 10.4.2018 passed by learned Sub-Divisional Judicial Magistrate, Bettiah, West Champaran passed in S.C. No.672 of 2018 arising out of Mainatand P.S. Case No.48 of 2013 by which petition filed under Section 239 of Cr.P.C. by the petitioners has been rejected.

3. On the written complaint of informant, Mainatand P.S. Case No.48 of 2013 was instituted against the petitioners in which informant alleged that his daughter's marriage was finalized with accused Dharmendra Kumar, son of Thakur



Prasad on 12.5.2013 and a ceremonial function was held on 19.2.2013 in which clothes, utensils, cash and jewellery worth rupees one lakhs thirty thousand were given to accused. However, on the day of marriage, i.e, 12.5.2013, Barat did not arrive at the house of informant and, thereafter, informant along with 8-10 persons went to the house of accused to know as to why Barat had not come then accused told that unless he pays a cash of rupees two lakhs and give pulsar motorcycle, marriage will not be solemnized and on such allegation, written complaint was filed upon which FIR was lodged and after investigation, police found the case to be true and submitted charge-sheet against the accused petitioners and cognizance was taken under Section 406, 504, 34 of IPC and Section 3/4 of D.P. Act.

4. Petitioners filed a discharge petition under Section 239 of Cr. P.C. on 11.2.2016 but the learned SDJM, Betiiah rejected the petition by the impugned order. It is submitted that there is no evidence or material against petitioners in order to constituted any offence under Section 406, 504, 34 of IPC and Section 3/4 of D.P. Act as such they may be discharged.

5. The learned court below considered the evidence and materials which were found against the accused petitioners during investigation and same is referred in para nos. 3, 7, 8, 9,



10 of case diary. The trial court found that there are sufficient material and evidence against the petitioners for framing charge and rejected the discharge petition.

6. At the time of framing of charge, the trial court is to consider whether there are sufficient materials collected during investigation against the petitioners on basis of which charges can be framed or not. Adequacy and sufficiency of the material and evidence cannot be examined at the stage of framing of charge. The trial court is not supposed to weigh the pros and cons of evidence and consider whether same will lead to conviction or not at the time of framing of charge. The defence of accused or his innocence cannot be considered at said stage.

7. Having considered the rival submission of the parties, this Court does not find any error or infirmity in the order passed by the trial court and accordingly, the present petition is dismissed.

(S. Kumar, J)

Sanjay/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	31.12.2019
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