

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No. 49215 of 2014

Arising Out of P.S. Case No.-360 Year-2011 Thana- DANAPUR District- Patna

1. Sumant Kumar, Son of Jitendra Mandal.
2. Shashikala Devi Wife of Jitendra Mandal.

Both Resident of Mohalla Chhoti Keshopur, P.S. Jamalpur District Munger.

3. Upendra Mandal Son of Sheodhari Mandal.
4. Aruna Devi Wife of Upendra Mandal.
5. Chandan Kumar Son of Upendra Mandal.
6. Pankaj Kumar Son of Upendra Mandal.

All Resident of Mohalla Basant Bihar Colony, Raghunath Path (Bailey Road), P.S. Danapur, Patna, District Patna.

... .. Petitioner/s

Versus

1. The State of Bihar
2. Mathura Prasad Son of Not Known, Resident of Mohalla Basant Bihar Colony, Raghunath Path, Bailey Road, P.S. Danapur, District Patna.
3. Gitanjali Kumari Daughter of Mathura Prasad, Resident of Mohalla Basant Bihar Colony, Raghunath Path, Bailey Road, P.S. Danapur, District Patna.

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. Ramchandra Sahni, Advocate
For the State	:	Mr. Jharkhandi Upadhyay, A.P.P.
For the Opposite Parties No. 2 & 3	:	Mr. Madanjeet Kumar, Advocate

CORAM: HONOURABLE MR. JUSTICE AHSANUDDIN
AMANULLAH

ORAL JUDGMENT

Date : 09-04-2019



Heard learned counsel for the petitioners; learned A.P.P. for the State and learned counsel for the opposite parties no. 2 and 3.

2. The petitioners have moved the Court under Section 482 of the Code of Criminal Procedure, 1973 (hereinafter referred to as the 'Code') of the following relief:

“That this is an application for quashing the order taking Cognizance dated 28/9/13 passed by the learned A.C.J.M. Danapur for the offences under Sections 363/365/120B of Indian Penal Code in connection with Danapur P.S. Case No. 360/11 differing with the final report of the Police.”

3. The opposite party no. 2 had filed Danapur P.S. Case No. 360 of 2011 against the petitioners alleging that his daughter (opposite party no. 3) was abducted by them. It was alleged that the parties are neighbourers and the petitioners are persons of questionable integrity and that the petitioner no. 3 had been arrested on a number of occasions by the police.

4. Learned counsel for the petitioners submitted that the allegations against them are false and rather it is the opposite party no. 2, who is responsible for maltreating the opposite party no. 3 for the reason that the biological mother of the opposite party no. 3 had died and then the opposite party no. 2 had married for the second time from whom he has two sons and the second wife did



not treat the opposite party no. 3 well due to which she had in the past runaway and this time also she had herself gone to Delhi for seeking job. Learned counsel drew the attention of the Court to the statement of the opposite party no. 3 before the Court under Section 164 of the Code in which she has blamed her father for maltreatment and has alleged that the wife of the opposite party no. 2 was the second wife and, thus, step-mother of the opposite party no. 3. It was submitted that she has also stated that she had gone to Delhi on her own free will. It was further submitted that the police had submitted final form against the petitioners but still the Court below, deferring from the same, has taken cognizance.

5. Learned A.P.P., upon going through the case diary, submitted that many witnesses have supported the prosecution story and, thus, the Court after applying its independent mind has rightly taken cognizance. Learned A.P.P. also took the Court to various paragraphs of the case diary in which statement of witnesses under Section 161 of the Code has been recorded to indicate that the allegations are made out against the petitioners.

6. Learned counsel for the opposite parties no. 2 and 3 submitted that initially, the opposite party no. 3 was forcibly taken away by the petitioners and thereafter also she was brought to Patna where her statement was first recorded before the Deputy



Superintendent of Police and even before the Court she was produced while she was with the petitioners. It was submitted that all such statements are under threat and coercion. Learned counsel submitted that neither is there any second wife of the opposite party no. 2 and she has three children. It was submitted that the elder is the son and thereafter, the opposite party no. 3 was born in 1987 followed by another son. Learned counsel submitted that it is a complete false statement that opposite party no. 2 has married for a second time. Learned counsel submitted that he had never married his daughter to anyone and that she has been married only recently in January, 2019, and she is living with her in-laws in the matrimonial home.

7. Having considered the facts and circumstances of the case and submissions of learned counsel for the parties, the Court does not find any merit in the present application. The challenge being to the order taking cognizance and from the police investigation itself when many witnesses have supported the prosecution story, the Court below has rightly applied its judicial mind to arrive at a conclusion. The same, in the considered opinion of this Court is neither perverse nor based on no materials. Thus, the matter requires to be taken to a full trial where the parties shall be at liberty and shall have full opportunity to adduce



evidence and prove their case. However, interfering in the matter at this stage, would not serve the interest of justice.

8. Accordingly, the application stands dismissed.

9. The records received be returned forthwith.

(Ahsanuddin Amanullah, J.)

P. Kumar

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