

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.15437 of 2018

Arising Out of PS. Case No.-148 Year-2012 Thana- PATLIPUTRA District- Patna

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1. Anil Kumar Singh @ Poonam S/o Late Bukhdeo Singh,
 2. Kaushalya Devi W/o Late Bukhdeo Singh, Both 1 and 2 are R/o Village- Mainpura, P.S.- Patliputra, District- Patna.
 3. Sanju Devi W/o Arun Singh,
 4. Arun Singh S/o Late Ram Bhajan Singh, Both 3 and 4 are R/o Village- Suetha, P.S.- Parshabajar, District- Patna.
 5. Anju Devi W/o Sanjay Singh, R/o Village- Reva, P.S.- Maner, District- Patna.
 6. Pushpa Devi W/o Dhananjay Kumar , R/o Village- Palanga, P.S.- Parshabajar, District- Patna.
 7. Prinyanka Singh @ Priyanka Sinha @ Priyanka W/o Sanjay Singh, R/o Village- Makhdumpur, P.S.- Digha, District- Patna.

... .. Petitioner/s

Versus

1. State Of Bihar
2. The Chiarperson, Kahkashan Parween, Bihar Rajya Mahila Ayog, Patna, south Bailey Road, Patna-1.
3. Smt. Sima Sinha D/O Sri Salendra Kumar Sinha through Sri Ram Chandra Sinha, Adarsh Colony, Rukunpura, PS-Danapur, Distt-Patna.

... .. Opposite Party/s

Appearance :

For the Petitioner/s :	Mr.Gopal Govind Mishra, Adv.
For the Opposite Party/s :	Mr. Ganesh Prasad Singh, APP
For Opposite Party No.3 :	Mr. P. Suresh Gandhi, Mr. Suresh Kumar, Advocates.

CORAM: HONOURABLE MR. JUSTICE ADITYA KUMAR TRIVEDI
ORAL ORDER

4 07-02-2019 Heard learned counsel for the petitioners, learned
APP as well as learned counsel for OP No.3.

2. Petitioner is aggrieved by an order dated
29.08.2016 passed by ACJM-cum-Sub Judge-XIII, Patna in
Patliputra PS Case No. 148/2012 whereby and whereunder
prayer of the petitioners purported to be under Section 239
CrPC has been rejected as well as order dated 31.10.2017
passed by Sessions Judge-XIII, Patna in Cr. Revision No.



678/2016 discussing the same.

3. While challenging the order impugned, it has been submitted that for the same occurrence, at an earlier occasion, Danapur PS Case No. 228/2000 has been drawn up by the wife and the same is still pending. It has further been submitted that the instant prosecution suffers from inherent lacuna in the background of the fact that the informant of this case happens to be Chairperson of Bihar State Mahila Commission who happens to be not at all competent enough to institute a case in accordance with Sections 198 as well as 198A of the CrPC. It has also been submitted that from perusal of the written report along with the materials collected during course of investigation, did not justify the finding so recorded by the learned lower court. Furthermore, it has also been submitted that in likewise manner, the learned Revisional Court while dismissing the revision having been filed against the order impugned at the end of petitioners suffers from inherent lacuna and that being so, the findings of the respective learned lower courts should be set aside.

4. The main thrust of argument as advanced at the end of the learned counsel for the petitioners is that the allegation happens to be vague whereupon, charge could not be



framed. Also drew attention towards order dated 14.05.2015 passed in Cr. Misc. No. 50366/2012.

5. Furthermore, in order to buttress such submission referred the case of *Neelu Chopra v. Bharti* as reported in *(2009) 10 SCC 184 as well as K. Subba Rao v. State of Telangana* as reported in *AIR 2018 SC 4009*.

6. On the other hand, learned APP along with learned counsel representing Opposite Party No.3 have submitted that from the Revisional Court's order, it is evident that the materials collected during course of investigation by the police have properly been considered and on account thereof, prayer for setting aside the respective orders of the learned lower court suffers from obscurity.

7. Heard the parties and perused the record.

8. From paragraph-6 of the Revisional Court's order, it is evident that learned lower court had referred relevant paragraphs of the case diary which substantiate the findings recorded by the learned lower court whereupon, prayer for discharge under the guise of Section 239 of the CrPC having at the end of petitioners had been rejected. It is needless to say that appreciation of material at the present moment happens to be weaker than *prima facie* case as observed by the Hon'ble Apex



Court in *Amit Kapoor v. Ramesh Chander* as reported in
(2012)9 SCC 460.

9. So far citations having been referred at the end of
learned counsel for the petitioners are concerned, the same
happen to be relating to quashing of the order of cognizance and
so, at that very moment, the mode of appreciation of the facts
happens to be quite distinguishable than the present one.

10. Consequent thereupon, instant petition lacks
merit and is accordingly, dismissed.

(Aditya Kumar Trivedi, J)

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