

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.22294 of 2015

Arising Out of PS. Case No.-81 Year-2015 Thana- BHABHU(KAIMUR) COMPLAIN C
District- Kaimur (Bhabua)

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1. Anuja Devi @ Pushpi D/O Late Pramod Kumar
 2. Sudhanshu Shekhar
 3. Himanshu Shekhar
 4. Subhranshu Shekhar @ Shumanshu Shekhar @ Nunnu. All sons of Late Pramod Kumar, R/o H.I.17, Harmu Housing Colony, P.S.- Argora, District- Ranchi (Jharkhand)
 5. Prabhat Pathak S/O Sri Binod Ram Pathak, R/O Village- Ratu, Ranchi, At present residing at S.R. Company Chandwa, District- Latehar (Jharkhand).

... .. Petitioner/s

Versus

1. State Of Bihar
2. Angad Das, S/o Late Baldeo Das, R/o Village- Bhabhua, Ward No. 13, P.S.- Bhabhua, District- Kaimur (Bhabhua).

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Upendra Mishra, Advocate
For the Opposite Party/s : Mr.R.S.Choudhary, APP

CORAM: HONOURABLE MR. JUSTICE BIRENDRA KUMAR
ORAL JUDGMENT

Date : 08-08-2019

Heard learned counsel for the parties.

2. By the impugned order dated 20.03.2015, cognizance has been taken against the petitioners for the offences under Sections 341, 323, 504/34 of the Indian Penal Code in Complaint Case No.73/81 of 2015, brought by opposite party No.2, *Angad Das*. Opposite Party No.2 is father-in-law of petitioner No.1, *Anuja Devi @ Pushpi*. Several civil and criminal



cases are going on between the parties, arising out of matrimonial dispute of *Anuja Devi @ Pushpi*.

3. Allegation in the complaint petition is that all the accused persons, who are petitioners herein came and asked for partition and separate allotment of share of *Anuja Devi @ Pushpi*. The complainant informed that partition has already been made. The paper of partition is there. As soon as the complainant was to bring the paper of partition, accused *Sudhanshu Shekhar* caught him and started assault against him. Others committed theft of cash and paper of partition. In the meantime, the witnesses came and they witnessed the occurrence.

4. Submission is that the present case suffers from malicious prosecution just to pressurize in the matrimonial dispute and continuance of such proceedings would amount to abuse of process of the court. Further submission is that another Complaint Case No.1299 of 2015, brought by opposite party No.2 against the petitioners was quashed by a co-ordinate Bench of this Court in Criminal Miscellaneous No.17265 of 2017 by order dated 19.04.2019.

5. Only for the reason that matrimonial dispute is there and several criminal and civil cases have been brought by the parties against each other, it cannot be inferred that the present



criminal prosecution is tainted with malicious prosecution. It is common experience that when matrimonial dispute arises such type of occurrence is sometimes committed by one of the parties to the dispute against other and sometimes false case is also brought to harass the other party.

5. At the stage of cognizance, it cannot be meticulously examined that the present case suffers from malicious prosecution. Hence, I am not inclined to interfere with the impugned order. Accordingly, it stands *dismissed*.

(Birendra Kumar, J)

abhishek/-

AFR/NAFR	NAFR
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