

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.6707 of 2015

Arising Out of PS. Case No.-724 Year-2012 Thana- COMPLAINT CASE District- Lakhisarai

1. Raghunandan Prasad, S/o Late Ramdhari Prasad, Resident of Chhoti Govindpur, P.S. - Govindpur, District - Singhbhoom (Jharkhand) at present resident of Mananpur Bazar , P.S. Chanan, District - Lakhisarai.
2. Manoj Kumar @ Manoj Prasad, Son of Late Mahavir Sao, resident of Itaun, P.S. - Chanan, District - Lakhisarai

... .. Petitioner/s

Versus

1. The State of Bihar
2. Sanyukta Devi, W/o Sudhir Mahto, resident of Itaun, P.S. - Chanan, District- Lakhisarai

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. Pankaj Kumar Sinha, Advocate Mr. Rabi Bhushan, Advocate Mr. Rakhi Kumari, Advocate
For the O.P. No. 2	:	Mr. B.J. Jha, Advocate Mr. Mritunjay Kumar, Advocate
For the State	:	Mr. Shyam Kumar Singh, A.P.P.

CORAM: HONOURABLE MR. JUSTICE BIRENDRA KUMAR
ORAL JUDGMENT

Date : 11-07-2019

Heard learned counsel for the parties.

2. Petitioners are accused in Complaint Case No. 724(C) of 2012 wherein cognizance has been taken for offences under Sections 323, 504 and 417 of the Indian Penal Code on 20.12.2012.

3. The petitioners have challenged the cognizance order on the ground that the order has been passed in a mechanical manner without considering the material on the record.



4. Learned counsel for the petitioners has drawn attention of the Court to the statement of complainant on oath wherein she stated that the accused committed abuse against her and assault against the son of the informant, namely, Chhote Bihari. Witness Chhote Bihari was examined as P.W. 2 during inquiry under Section 202 Cr.P.C. and he did not say that any assault was committed to him by the petitioners. Witness Subhash Yadav and Anandi Yadav stated that assault was committed against the complainant as well as against P.W. 2. Submission is that the issue is not of meticulous appreciation of evidence, rather examination of material with necked eye. When the complainant and her son are specific that no assault was committed against them, statement of other witnesses cannot be accepted that the complainant as well as her son was assaulted.

5. Submission of learned counsel for the petitioners that offence under Section 504 of the Indian Penal Code is not made out for simple reason that the law requires that there must be intentional insult committed by the accused and thereby to give provocation to such, intending or knowing it to be likely that such provocation will cause him to break the public peace, or to commit any other offence. In this case, there is no evidence of intention or knowledge that the act of abuse alleged against the petitioners was



with intent that it was likely to provoke the complainant to break the public peace or to commit any other offence nor she committed such offence or breached the public peace.

6. The aforesaid occurrence took place for the reason that there was an agreement between the parties whereunder the complainant was to sell her property to petitioner Manoj Kumar. Petitioner Manoj Kumar had issued two cheques to the complainant. One was dated 10.08.2012 of Rs.2,00,000/- and another was dated 16.08.2012 of Rs.1,50,000/-. When the complainant produced those cheques before the bank authority, the bank authority informed that the account number is not mentioned in the cheque which is required to be mentioned. Hence, the cheque was returned. Thereafter the complainant approached, along with the returned cheques, to petitioner Manoj Kumar where the occurrence of abuse and assault is alleged.

7. There is no dispute that cheques were not forged documents. None mentioning of the account number may be due to inadvertence or carelessness and may be intentional as well but for that cannot be said to be a forged documents as no case of making of a false document is made out.

8. Learned counsel for the complainant submits that at the stage of cognizance, meticulous appreciation of evidence and



trustworthiness of witnesses cannot be gone into. Moreover, prosecution evidence before charge is going on, hence, the petitioners would be at liberty to raise their grievances at the stage of framing of the charges also.

9. Since the petitioners have opportunity to raise their grievances before the learned court below itself that no offences alleged are made out, this application is being disposed of with liberty to the petitioners to raise the aforesaid issue before the trial court who shall pass a reasoned order.

(Birendra Kumar, J)

Kundan/-

AFR/NAFR	N.A.
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