

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.54628 of 2018

Arising Out of PS. Case No.-111 Year-2011 Thana- BAHADURPUR District- Patna

Satish Rajak S/o Late Ganga Rajak, R/o Mohalla- Jai Mahabir Colony, P.S.-
Bahadurpur, District- Patna.

... .. Petitioner/s

Versus

1. The State Of Bihar and Ors
2. Anil Kr. Singh S/o Bishundeo Singh, R/o Pokharma, P.S.- Kajra, District-
Lakhi Sarai,
3. Smt. Shyama Kumari W/o Shiv Kumar Prasad, R/o Vill. P.O. P.S.- Bena,
District- Nalanda.

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Ajay Kr Singh No.1
For the Opposite Party/s : Mr.Sri Jitendra Kumar Singh

CORAM: HONOURABLE MR. JUSTICE S. KUMAR

ORAL JUDGMENT

Date : 10-12-2019

Heard parties.

This application under Section 482 of the Cr.P.C has been filed for quashing the order dated 28.01.2016 passed by Additional Chief Judicial Magistrate-II, Patna City in Bahadurpur P.S. Case No. 111 of 2011, G.R. No. 2786 of 2011 and Tr. No. 3546/2016, taking cognizance against the petitioner for the offence punishable under Sections 341, 323, 384, 504/34 IPC.

FIR was registered on the written complaint of Informant- Opposite Party No. 3 in which she has alleged that she had purchased a house from Anil Kumar Singh after paying consideration amount of Rs. 17,22,000/- and after execution of sale deed Satish Rajak(petitioner) and Anil Kumar Singh are



demanding Rs. 8,00,000/- further as ransom and only thereafter she will be permitted to live in said house and on 19.12.2011 when she came to reside in said house Anil Kumar Singh and Satish Rajak assaulted her by fists and slaps and also abused and snatched the Chain from his son and demanded Rs. 8,00,000/- as ransom otherwise she will be not permitted to enter into the house.

On the basis of said written complaint, FIR was instituted and after investigation police submitted chargesheet against the petitioner and on the basis of materials available on record the Court has found *prima facie* case to be made out against the petitioner and took cognizance for the offence punishable under Sections 341, 323, 384, 504/34 of the IPC and issued summons for his appearance to face trial.

It has been submitted on behalf of the petitioner that dispute is of civil nature and no criminal offence is made out against the petitioner.

On the basis of chargesheet, police papers and materials available on record, the trial court found *prima facie* case to be made out against the petitioner and took cognizance against the petitioner and issued summons for his appearance to face the trial.

At the stage of taking cognizance the court has to form an opinion that on the basis of materials available in case diary whether a *prima facie* case is made out against the accused or not.



The defence of the accused cannot be considered at the time of taking cognizance. This Court in its inherent jurisdiction cannot substitute its view regarding sufficiency or adequacy of material before the court below at the time of taking cognizance and issuance of summons against accused as same is within exclusive domain of trial court, as such I am not inclined to interfere with the order dated 28.01.2016 passed by ACJM-II, Patna, City.

There is no merit in this application and is dismissed, accordingly.

However, the petitioner will be at liberty to raise all the issues raised before this Court as well as other points available to him in accordance with law at subsequent stage i.e. at the time of filing of discharge petition/framing of charge, if not already framed.

(S. Kumar, J)

ranjan/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	12.12.19
Transmission Date	12.12.19

