

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.82349 of 2019

Arising Out of PS. Case No.-640 Year-2016 Thana- BHAGALPUR COMPLAINT CASE
District- Bhagalpur

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Basudeo Mandal, Son of Bharosi Mandal, Resident of Village- Jahangir, P.S.-
Sultanganj, District- Bhagalpur.

... .. Petitioner/s

Versus

1. The State of Bihar
2. Indu Devi, Wife of Birendra Mandal, Resident of Village- Jahngir, P.S.-
Sultanganj, District- Bhagalpur.

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Dhananjay Kumar Pandey, Advocate

For the Opposite Party/s : Mr. Umesh Lal Verma, APP

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CORAM: HONOURABLE MR. JUSTICE VINOD KUMAR SINHA
ORAL ORDER

2 12-12-2019 This application has been filed for quashing of order dated 02.08.2019 passed by the learned Sri Kumar Pankaj, learned Judicial Magistrate, 1st Class, Bhagalpur in Complaint Case No. 640 of 2016, by which, the learned Judicial Magistrate, 1st Class, Bhagalpur after enquiry finding a prima facie case under Section 323 and 379 of IPC against the petitioner, issue process against him.

From perusal of the record, it appears that a complaint petition was lodged by the complainant against the petitioner and other accused persons that the petitioner and other accused persons tried to lift the complainant, when she protested, the accused no.1 dashed her and thereafter, there is allegation that



her husband came and accused persons assaulted her husband. He fled away to his house and again he was assaulted and further allegation is that they had damaged the plantation of the complainant. It further appears that after enquiry, finding a *prima facie* case against the petitioner and other accused persons, process has been issued against the petitioner and other accused persons in this case.

The ground for quashing is that he is a government employee and he was not present at that time at the place of occurrence, but in spite of that he has been made accused in this case. The learned Magistrate without considering the same, in a mechanical manner passed the order issuing process against them.

On the other hand, learned APP has opposed the quashing of order on the ground that after finding a *prima facie* case under Section 323 and 379 of IPC, process has been issued against the petitioner and other accused persons. So far *alibie* of the petitioner is concerned, that can be looked at the stage of trial and not at this stage.

Having heard both sides and perused the materials available on the record that shows that a *prima facie* case under Sections 323 and 379 of IPC against the petitioner and finding



the case true, process has been issued against him. So far *alibie* against the petitioner that cannot be looked into at this stage. Accordingly, I find no merit in this application and the same is dismissed.

(Vinod Kumar Sinha, J)

Sunil Shukla/-

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