

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.22632 of 2015

Arising Out of PS. Case No.-219 Year-2010 Thana- GAYA KOTWALI District- Gaya

Lalan Kumar Son of Ramjee Baitha Resident of Village - Pakri Guriya, P.S. -
Imamganj, District - Gaya.

... .. Petitioner/s

Versus

1. The State Of Bihar
2. Sanju Devi wife of Binay Kumar Resident of Village - Bishanpur, P.S. -
Navinagar, District - Aurangabad, Present Address D/o Ganesh Rajak, Gabal
Bigha, Near Mazar, P.S. - Rampur, District - Gaya.
3. Rahul Kumar @ Abhishek Kumar Son of Ganesh Rajak Resident of Village
- Gawal Bigha near Majar, P.S. - Rampur, District - Gaya.

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. Sanjay Kumar Sharma, Advocate
For the Opposite Party/s	:	Mr. Madhav Raj, Advocate
	:	Mr. Jitendra Kumar Shrivastava, Advocate
For the State	:	Mr. Shyam Kumar Singh, APP

CORAM: HONOURABLE MR. JUSTICE BIRENDRA KUMAR
ORAL ORDER

3 09-01-2020 Heard counsel for the parties.

2. Petitioner is informant of Gaya Kotwali P.S. Case No.219 of 2010 brought against Sanju Devi and others for offences allegedly committed under Sections 341, 363, 379, 504, 323 and 120B of the Indian Penal Code.

3. Sanju Devi surrendered in the case and prayed for bail on the ground that she is wife of the informant of the case, i.e., petitioner (herein). Sanju Devi produced different documents in support of her assertion that she is wife of the petitioner. Sanju Devi was allowed bail by the court below.

4. When the petitioner came to know about the aforesaid fact, petitioner filed a petition under Section 340 of



the Cr.P.C. before the court below alleging therein that the documents filed by Sanju Devi for getting bail were all forged documents. She is not married with the petitioner. Hence, the act of Sanju Devi in producing forged and fabricated documents be enquired and FIR be lodged against Sanju Devi.

5. By the impugned order dated 21.02.2015, the learned court below came to the conclusion that application under Section 340 of the Cr.P.C. would be maintainable only when a document is forged/tampered with after filing of the same in Court. Accordingly prayer was declined.

6. The aforesaid order of the Judicial Magistrate, Ist Class, Gaya is under challenged in this application under Section 482 of the Cr.P.C.

7. Learned counsel for the Opposite Parties have raised preliminary objection that an appeal is maintainable before the competent court under Section 341 of the Cr.P.C. against refusal of the prayer under Section 340 of the Cr.P.C. Hence, without availing statutory remedy, by filing the present application, the petitioner has attempted to over reach the jurisdiction of appellate Court. Further contention is that the law has been well settled by a catena of decision that the provisions of Section 195(i)(b) Cr.P.C. would be attracted only when the



offences enumerated in the said provision have been committed with respect to a document after it has been produced or given in evidence in a proceeding in any Court, i.e., during the time when the document was in custodia legis. Reference may be made to the case of *Iqbal Singh Marwah and Anr. vs. Meenakshi Marwah & Anr.* reported in (2005) 4 SCC 370.

8. On careful consideration of provisions of law, I am of the view that the petitioner has not availed statutory remedy of appeal, hence, this application under Section 482 of the Cr.P.C. is not entertainable. Moreover, the law is well settled that when any forged document is produced in the Court, a case of forgery may be brought by the aggrieved person by filing a separate complaint/police case. However, the court can be requested to enquire into the matter under Section 340 of the Cr.P.C. and file a complaint only when tampering/forgery in document has been done after it has been filed in the Court in any proceeding pending before the Court. Therefore, otherwise also, this application has got no merit. Accordingly, it stands dismissed.

B.Kr./-

U		T	
---	--	---	--

(Birendra Kumar, J)

