

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.18658 of 2020

Arising Out of PS. Case No.-3604 Year-2018 Thana- PATNA COMPLAINT CASE District-
Patna

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1. KABITA KUMARI D/O Surendra Kumar Singh R/O Muhalla - Sai Bihar Colony, Road No. -01(c) Jaganpura, P.S. - Ramkrishna Nagar, District - Patna (Bihar).
 2. Kishor Kunal S/O Surendra Kumar Singh R/O Muhalla - Sai Bihar Colony, Road No. -01(c) Jaganpura, P.S. - Ramkrishna Nagar, District - Patna (Bihar).
 3. Surendra Kumar Singh S/O Late Loki Mahto R/O Muhalla - Sai Bihar Colony, Road No. -01(c) Jaganpura, P.S. - Ramkrishna Nagar, District - Patna (Bihar).

... .. Petitioner/s

Versus

1. THE STATE OF BIHAR
2. Harihar Prasad S/O Late Sukhuchand Prasad R/O East Tejpratap Nagar, Anishabad, P.S. - Beur, District - Patna.

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Raj Kishor Prasad
For the Opposite Party/s : Mr.Bal Mukund Prasad Sinha

CORAM: HONOURABLE MR. JUSTICE NAWNEET KUMAR PANDEY

ORAL ORDER

4 28-07-2022 Heard the learned counsel for the petitioners as well as learned counsel for opposite party no.2.

As per allegation made in the complaint petition, accused persons came to the house of the complainant and accused Kabita Kumari, who is daughter-in-law of the complainant, took ornaments from the house. She also took away ornaments of elder daughter-in-law of the complainant. The accused persons also alleged to have taken away T.V. set.



There is also allegation that accused no.4 Naresh Kumar, who is a police officer, put Sanjay Kumar and Mala Sinha in police station and confined them in Hazrat for seven hours.

Learned counsel appearing on behalf of the petitioners has submitted that petitioner no.1 is daughter-in-law of the complainant. Petitioner no.2 is brother of petitioner no.1, whereas petitioner no.3 is father of petitioner no.1. He has submitted further that the present complaint petition as well as the cognizance order dated 10.12.2019 passed by the learned Magistrate in Complaint Case No. 3604 C of 2018 are nothing but merely an abuse of the process of the court. As a matter of fact, the petitioner Kabita Kumari lodged a case three months prior to lodging of the complaint petition under Section 498A, 509, 313 and 379/34 of the Indian Penal Code against the complainant, her husband and other inmates of her matrimonial house. The case lodged by petitioner no.1 was registered on 23.05.2018 as Mahila P.S. Case No. 54 of 2018, whereas the present complaint petition was instituted on 23.08.2018 after three months of the lodging of the FIR. He has submitted further that this false complaint has been lodged only with a view to put pressure in the case already lodged by petitioner no.1 against the complainant and his family members.



On the other hand, opposite party no.2 has submitted that the complainant has specifically mentioned that the accused persons after entering into his house committed theft of the articles from the house of the informant. He has submitted further that the witnesses have supported the occurrence.

It is admitted fact that the complaint case has been lodged after three months of lodging of the FIR by petitioner no.1 with allegation that the complainant and his family members subjected her to cruelty for non-fulfilment of dowry demand. The impugned order and the complaint petition show that it was nothing but an abuse of the process of the court.

The impugned order dated 10.12.2019, passed by the learned Judicial Magistrate, 1st Class, Patna in Complaint Case No. 3604 C of 2018 is not sustainable. Accordingly it is quashed and the petition is allowed.

(Nawneet Kumar Pandey, J)

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