

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.17750 of 2018

Arising Out of PS. Case No.-836 Year-2016 Thana- PATNA COMPLAINT CASE District-
Patna

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1. Pradeep Kumar Sharma, son of Suresh Mistri, Resident of village-Dovadih, P.S.-Shekhopur Sarai, District- Shekhpura, presently residing at Molarband Extension, Lane No. 32, House No. 386/06, Badarpur, New Delhi.
 2. Suresh Mistri, son of Tetar Mistri, resident of village-Dovadih, P.S.-Shekhopur Sarai, District-Shekhpura, presently residing at Patel Colony, P.S.-Mahendru, P.S.-Sultanganj, District-Patna.
 3. Bhaso Devi, wife of Suresh Mistri, resident of village-Dovadih, P.S.-Shekhopur Sarai, District-Shekhpura, presently residing at Patel Colony, P.S.-Mahendru, P.S.-Sultanganj, District-Patna.
 4. Priti Kumari, daughter of Suresh Mistri, resident of village-Dovadih, P.S.-Shekhopur Sarai, District-Shekhpura, presently residing at Patel Colony, P.S.-Mahendru, P.S.-Sultanganj, District-Patna.

... .. Petitioner/s

Versus

1. State Of Bihar.
2. Sujata Kumari, wife of Pradeep Kumar Sharma, daughter of Parmanand Sharma, resident of Mohalla-Kumhrar, Opposite Police Chowki, Pakka Kuan, P.O.-Bahadurpur Housing Colony, P.S.-Agamkuan, Patna-800026.

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Kumar Kaushik, Advocate
For the Opposite Party/s : Mrs. Meena Singh, APP

CORAM: HONOURABLE MR. JUSTICE ARUN KUMAR JHA
ORAL JUDGMENT

Date : 21-09-2022

Heard learned counsel for the petitioners and learned
APP for the State.

In the present case, the petitioners are challenging
the cognizance order dated 04.03.2017 passed by learned
Additional Chief Judicial Magistrate-III, Patna City, Patna
whereby cognizance has been taken against the petitioners for
the alleged offence under Section 498 (A) of the Indian Penal
Code in connection with Complaint Case No. 836 of 2016.



It has been submitted by the learned counsel for the petitioners that trial has proceeded in the case and evidence on behalf of the prosecution is being recorded. Despite this fact, the petitioners want to assail the cognizance order as it is based on non-appreciation of the material facts of the case specially against the petitioner nos. 2 to 4.

Since the petitioners have challenged the cognizance order questioning the facts and controverting the assertions made by the complainant in the complaint petition, it is well settled preposition of law that this Court would not go into the disputed questions of facts while exercising its power under Section 482 Cr.P.C. It has no jurisdiction to examine the correctness or otherwise of the allegation.

The aforesaid propositions were laid down by the Supreme Court in the case of *Smt. Nagawwa Vs. Veeranna Shivalingappa Konjalgi*, AIR 1976 SC 1947 and *Madhavrao Jiwagi Rao Sciendia Vs. Sambhajirao Chandiojirao Angre*, AIR 1988 SC 709 and quoted with approval in the case of *State of Haryana and Others Vs. Bhajan Lal and Others*, AIR 1992 SC 604.

Now, from the facts of the present case, it is obvious that the petitioners want to invoke the inherent



jurisdiction of this Court under Section 482 Cr.P.C. to test the veracity of the facts since they have controverted the same with another set of the facts. I am afraid the petitioners could not succeed in getting any relief from this Court as this Court lacks jurisdiction to examine the correctness of the allegation. Furthermore, the case of the petitioner is also not covered under any of the guidelines as enumerated by the Supreme Court in ***Bhajanlal's case*** (Supra).

At this stage, learned counsel for the petitioners seeks permission to withdraw this application with liberty to raise all issues, which have been raised herein in this petition, before the learned trial court.

Accordingly, this application is disposed of with liberty to the petitioners to raise all points before the learned trial court, which will be considered by it on its own merit without being prejudiced by the present order.

(Arun Kumar Jha, J)

V.K.Pandey/-

AFR/NAFR	N.A.F.R.
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