

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.46751 of 2019

Arising Out of PS. Case No.-1780 Year-2018 Thana- GOPALGANJ COMPLAINT CASE
District- Gopalganj

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1. MANTU RAJ @ SARV DEVTA Son of Late Bharat Prasad R/O C2 veterinary link Road P.O and P.S.- Kanke (CT), Ranchi, 834006
 2. Sangeeta Kumari @ Sangeeta Devi Wife of Mantu Raj R/O C2 veterinary link Road P.O and P.S.- Kanke (CT), Ranchi, 834006
 3. Satya Raj Mantu @ Satya Raj Son of Mantu Raj R/O C2 veterinary link Road P.O and P.S.- Kanke (CT), Ranchi, 834006
 4. Muni Prasad Son of Late Bharat Prasad R/O Birsa Agriculture University, Department of Plant Pathlogy Kanke P.S.- Kanke, Distt - Ranchi.
 5. Sita Pushpa Wife of Muni Prasad R/O Birsa Agriculture University, Department of Plant Pathlogy Kanke P.S.- Kanke, Distt - Ranchi.
 6. Rahul Raj @ Radhe Son of Late Bharat Prasad Resident of Raani Bagan Bariyatu, P.S.- Bariyatu, Distt - Ranchi.
 7. Parul Raj @ Parul Devi Wife of Rahul Raj @ Radhe Resident of Raani Bagan Bariyatu, P.S.- Bariyatu, Distt - Ranchi.

... .. Petitioner/s

Versus

1. THE STATE OF BIHAR
2. Kishori Devi Wife of Late Bharat Prasad Resident of Mohalla - Tulsiyaan, P.S.- Uchkagaavn, Distt - Gopalganj A/P Adhvakta Nagar ward No. - 14, Gopalganj.

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. Kishore Kunal, Advocate Mr. Deepak Kumar, Advocate Mr. Ram Narayan Brahmachari
For the Opposite Party/s	:	Mr. Sanjay Kumar, APP
For the O.P. No.2	:	Ms. Sudha Ambastha, Advocate

CORAM: HONOURABLE MR. JUSTICE SATYAVRAT VERMA
ORAL ORDER

2 15-12-2022 Heard learned counsel for the petitioners, learned
counsel for the complainant and learned A.P.P. for the State.

The present application has been filed seeking
quashing of the order dated 31.10.2018 passed by the learned



A.C.J.M., Gopalganj whereby and whereunder cognizance has been taken under Sections 323 and 379 of the I.P.C. in connection with Complaint Case No. 1780 of 2018, Trial No. 2553 of 2018.

Ms. Sudha Ambashta, learned counsel for the complainant appears and submits that she had filed her *Vakalatnama* on behalf of the complainant in the year 2019 but complainant now is no more, as she died on 8.10.2021, as such she withdraws her *Vakalatnama*, it is also submitted that when complainant was alive, a criminal writ being Cr.W.J.C. No. 7770 of 2020 (as pleaded in paragraph '10' of the supplementary affidavit filed on behalf of the petitioners) was filed on behalf of the present complainant with a prayer for a direction upon the learned Additional Chief Judicial Magistrate-IX, Gopalganj to entertain her petition under Section 257 of the Cr.P.C. in Complaint Case No. 1780 of 2018, Trial No. 2553 of 2018 i.e., the present case in which the petitioner sought quashing of the order by which cognizance has been taken.

Learned counsel for the petitioner submits that the statement of the complainant was also recorded under Section 164 of the Cr.P.C. wherein she has very categorically stated that she was forcefully taken by her elder brother Kedar, his son-in-



law Pradeep Verma and maternal grandson Sunny from Ranchi to Gopalganj and there she was assaulted and confined in a room, they did not even give her food and thereafter forcefully took her to the Court where she was made to file the present complaint against her sons, daughters-in-law and others, further somehow one day she managed to escape from Gopalganj. Learned counsel for the petitioner thus submits that no doubt from bare perusal of the allegation as alleged in the complaint it appears that the allegations are heinous, as a mother had filed the aforesaid complaint against her sons, daughters-in-law and grandsons alleging that after death of her husband, she was being tortured in the manner as alleged but then from perusal of her statement recorded under Section 164 Cr.P.C. it would manifest that since her husband had died and the complainant was receiving family pension and had property, as such her brother took her to Gopalganj and where he made her file this complaint. It is next submitted that during her lifetime, the aforesaid criminal writ was also filed before this Court seeking a direction upon the learned trial court for accepting her application under Section 257 Cr.P.C. for withdrawing the complaint case, this amply demonstrates that the complainant during her lifetime itself did not want to pursue the present case.



It is thus submitted that the order dated 31.10.2018 passed by the learned A.C.J.M., Gopalganj whereby cognizance under Sections 323 and 379 of the I.P.C. has been taken against the petitioners in Complaint Case No. 1780 of 2018 giving rise to Trial No. 2553 of 2018, be quashed.

Learned A.P.P. for the State opposes the quashing application.

Considering the submissions made by the learned counsel for the petitioners, the order dated dated 31.10.2018 passed by the learned A.C.J.M., Gopalganj whereby and whereunder cognizance has been taken under Sections 323 and 379 of the I.P.C. in connection with Complaint Case No. 1780 of 2018, Trial No. 2553 of 2018 is hereby quashed.

Accordingly, the quashing application is allowed.

(Satyavrat Verma, J)

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