

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.16367 of 2023

Arising Out of PS. Case No.-1891 Year-2022 Thana- EAST CHAMPARAN COMPLAINT
District- East Champaran

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1. RAJESH PANDEY @ RAJESH KUMAR PANDEY Son of Late Ramesh Chandra Pandey R/o Mohalla- Chandmari, P.S.- Motihari Town, District- East Champaran
 2. LALAN SINGH Son of Late Ram Singh @ Ram Chandra Singh R/o Mohalla- Chandmari, P.S.- Motihari Town, District- East Champaran

... .. Petitioner/s

Versus

1. The State of Bihar
2. GUDIA DEVI Wife of Niraj Kumar Pandey R/o Mohalla- Chandmari, P.S.- Motihari Town, District- East Champaran

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Rajesh Ranjan, Advocate
For the Opposite Party/s : Mr.Atul Chandra, APP

CORAM: HONOURABLE MR. JUSTICE SANDEEP KUMAR
ORAL ORDER

3 25-07-2023 Heard learned counsel for the petitioners and learned
APP for the State.

2. This application has been filed for quashing of order dated 29.09.2022 passed by learned Judicial Magistrate-1st Class, East Champaran at Motihari in Complaint Case No. 1891 of 2022 by which learned Magistrate has taken cognizance against the petitioners for the offences under Sections 341, 354 and 506 of the Indian Penal Code.

3. As per complaint, the petitioners approached the complainant and her husband and requested them to stay in a school which is under construction and also to take care the said



construction work, for that the petitioners will pay an amount of Rs. 10,000/- per month to them. It is further alleged that during the construction work, on the request of the petitioners, the complainant gave an amount of Rs. 1,30,000/- after selling her gold ornaments to them. When the construction work was completed and the said school started running in the name of Ideal Public School, however, thereafter, the petitioners neither paid the salary to the complainant nor returned the loan amount. It is also alleged that thereafter, the petitioners started molesting the complainant and on 25.07.2022 at about 8:30 P.M while the complainant was preparing dinner in her residential house which is situated in the said school, the petitioners came her house and tried to outrage her modesty.

4. It has been submitted by learned counsel for the petitioners that Ideal Public School is running on rent in the house of petitioner no. 1 and the petitioner no. 2 is the principal of the said school. The husband of the complainant is the cousin brother of the petitioner no. 1 and their children were studying in the said school. When the petitioner no. 2 demanded tuition fee from the complainant, the husband of the complainant threatened both the petitioners, thereafter, the petitioner no. 1 has submitted an application before S.H.O, Motihari Town



Police Station for needful action.

5. It has further been submitted that Opposite Party No. 2 has filed false and fabricated case with ulterior motive to extort money from the petitioners which would be evident from the fact that Opposite Party No. 2 has been living in the house for last three years.

6. It has further been submitted that learned Magistrate has erroneously taken cognizance against the petitioner. They neither intended to outrage the modesty of Opposite Party No. 2 nor they threatened them. These allegations levelled against the petitioners only to make the case serious.

7. It has further been submitted that learned Magistrate has passed impugned order in a mechanical manner without applying his mind which is evident from the impugned order itself. It is a non speaking order inasmuch as learned Magistrate has failed to discuss the evidence adduced by the Opposite Party No. 2.

8. Learned APP has opposed the prayer of the petitioners.

9. It is has been submitted by learned counsel for Opposite Party No. 2 that the present case has been filed



because of illegal acts committed by the petitioners.

10. I have gone through the complaint, statement on essay and other materials available on record. The present case is a maliciously instituted with an ulterior motive for wreaking vengeance on the petitioners and other accused persons.

11. In view of the law laid down by Hon'ble Supreme Court in the case of *State of Haryana Vs. Ch. Bhajan Lal & Others* reported in *AIR 1992 SC 604*, this application is allowed. The impugned order dated 29.09.2022 passed by learned Judicial Magistrate-1st Class, East Champaran at Motihari in Complaint Case No. 1891 of 2022 and all consequential proceedings arising out of aforesaid complaint are hereby quashed.

(Sandeep Kumar, J)

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