

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.17836 of 2018

Arising Out of PS. Case No.-131 Year-2013 Thana- BANKA District- Banka

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1. Dr. Manjusha Jha W/o Dr. Pradeep Kumar Jha
 2. Dr. Pradeep Kumar Jha S/o Shri Hari Mohan Jha Both residents of village - Banka Eye Care and Child Care Hospital, 1st Floor, Shitla Market, Katoria Road, Vijay Nagar, Banka, P.S. - Banka, District - Banka.

... .. Petitioner/s

Versus

1. State Of Bihar
2. Gokul Jha S/o Shri Janardan Jha resident of village - Vijay Nagar, P.S. - Banka, District - Banka.

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Saket Tiwary
For the Opposite Party/s : Mr. Rajesh Kumar

CORAM: HONOURABLE MR. JUSTICE SANDEEP KUMAR
ORAL ORDER

3 22-08-2023 Heard learned counsel for the parties.

2. This application has been filed for quashing of the order dated 23.06.2016 by which learned Additional Chief Judicial Magistrate IV, Banka has taken cognizance against the petitioners in Banka P.S. Case No. 131/2013 (GR No. 630/13) registered under Sections 323, 504, 506/34 of the Indian Penal Code.

3. As per prosecution case, informant went to the hospital of the petitioners and requested the doctor that his seven months old nephew was being treated but there was no improvement and to examine him carefully. Petitioners refused



to examine and also kept prescription with him along with cash of Rs. 60,000/- and other articles. The informant further alleged that Doctor Manjusha Jha slapped the wife of elder brother of the informant and snatched golden chain costing Rs. 1 Lakh.

4. A complaint was filed which was directed to be registered as FIR under Section 156(3) Code of Cr. P.C. resulting into registration of FIR. After investigation police submitted charge sheet finding the case to be true against the petitioners. The petitioners are qualified doctors. It is further alleged that opposite party no. 2 and others had come to the clinic of petitioners and taken away the monitor of the medicine shop in the petitioners hospital. They had misbehaved with the petitioners. After chargesheet cognizance has been taken by the court below. The informant has not disclosed the nature of the illness of the child. The allegation of snatching has been made only to give a grave look to the case. Even presuming the prosecution story true, no offence under Sections 323, 504, 506/34 of the Indian Penal Code is made out against the petitioners.

5. Learned APP for the State and learned counsel for the opposite party no. 2 have opposed the prayer for quashing.

6. From reading of the F.I.R., it appears that it is a



counterblast to the Banka P.S. Case No. 131/2013 and it is a malafide prosecution. Considering the law laid down by Hon'ble Supreme Court in the case of *State of Haryana vs. Bhajan Lal (1992) Supp (1) SCC 335*, this application is allowed.

7. The order dated 23.06.2016 by which learned Additional Chief Judicial Magistrate IV, Banka has taken cognizance against the petitioners in Banka P.S. Case No. 131/2013 (GR No. 630/13) is hereby quashed.

(Sandeep Kumar, J)

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