

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.21213 of 2015

Arising Out of PS. Case No.-92 Year-2004 Thana- COMPLAINT CASE District- Supaul

1. Shiv Kumar Jha Son of late Sripati Jha
2. Bharat Kumar S/o late Sripati jha
Both Resident of Village- Beena Vabhangama, P.s Supaul, district Supaul.

... .. Petitioner/s

Versus

1. State Of Bihar
2. Kanchan Devi wife of late Krishna Kant Jha resident of Village- Beena Bawhangama, P.s Supaul, District- supaul at Present residing with her father namely Bhawesh Mishra, son of Late Basudeo Mishra, Mohalla- Ward NO. 20, P.s - Supaul, District Supaul

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Mukund Mohan Jha, Advocate

For the Opposite Party/s : Mr.Rana Randhir Singh, APP

CORAM: HONOURABLE MR. JUSTICE SANDEEP KUMAR

ORAL ORDER

3 13-02-2023 Heard learned counsel for the petitioners and learned
APP for the State.

Learned counsel for the petitioners is permitted to remove defect(s), as pointed out by the office, if any, within a period of four weeks from today.

The present application has been filed for quashing the order dated 08.04.2005 passed by the learned S.D.J.M, Supaul in Complaint Case No. 92(C)/of 2004, by which the cognizance has been taken against the petitioners for the offences under Sections 498A, 323, 379 of I.P.C and Section 3/4 of D.P. Act.

The allegation against the petitioners is that they had provided matchbox to the co-accused for lighting the fire. There



is no injury to the complainant.

Learned counsel for the petitioners submits that this is a *mala fide* prosecution and the story seems to be unbelievable and just to rope in all the family members, this story has been propounded by the complainant.

The learned APP has submitted that the petitioners may also be directed to raise all the grievances in the Court below at the time of framing of charge.

The prosecution case seems to be inherently improbable. This case has been lodged with a *mala fide* intention to wreck vengeance. Learned counsel for the petitioner further relied upon the judgment of Hon'ble Supreme Court in the case of ***Ashok Chaturvedi & Ors Vs Shitul H. Chanchani & Anr*** reported in ***(1998) 7 SCC 698***.

In view of the above, the order dated 08.04.2005 passed by the learned S.D.J.M, Supaul in Complaint Case No. 92(C)/of 2004 is here by quashed and the present application is allowed.

(Sandeep Kumar, J)

Harsh/

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