

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.39067 of 2015

Arising Out of PS. Case No.-805 Year-2013 Thana- BEGUSARAI TOWN District- Begusarai

1. Rishika, W/o Shri Rishi Perveen.
2. Rishi Perveen S/o Late Ajay Kumar Sinha.
Both are Resident of Muhallah-Mungeriganj (Ward No. 33), P.S. Town, District- Begusarai.

... .. Petitioners

Versus

1. The State Of Bihar.
2. Mamta Sinha, W/o Shri Prasun Perveen, Resident of Muhallah-Mungeriganj, Ward No. 33, P.S. Town, District Begusarai.

... .. Opposite Parties

Appearance :

For the Petitioner : Ms. Sudha Ambastha, Advocate
For the Opposite Party : Mr. T.N.Thakur, APP

CORAM: HONOURABLE MR. JUSTICE SANDEEP KUMAR
ORAL ORDER

3 24-03-2023 Heard learned counsel for the parties.

Learned counsel for the petitioners is permitted to
make necessary correction in paragraph-1 of writ application.

This application has been filed for quashing of the
order dated 05.02.2014 passed by the learned Chief Judicial
Magistrate, Begusarai in Begusarai Town P.S. Case No.805 of
2013 (G.R. No. 5232 of 2013), by which the learned Magistrate
has taken cognizance against the petitioners for the offences
under sections 341, 323, 448 & 504/34 of the Indian Penal
Code.

The prosecution case is that on 23.11.2013 at about



9:00 A.M. while the informant and his family members were at home, the petitioners along with some miscreants entered into the house and abused them and also assaulted them. It is also alleged that the accused persons have also snatched golden chain from the neck of the informant. When the staffs of the informant came, the accused persons threatened to kill the informant and his family members.

It has been submitted by learned counsel for the petitioners are brother-in-law and sister-in-law of the informant and they are from the same family and are residing in the same house. It has also been submitted that petitioner no.1 has also lodged an F.I.R. vide Begusarai Town P.S. Case No. 797 of 2013 for the offences under Sections 498-A/34, 504 and 506 of the Indian Penal Code against the prosecution side which has been quashed by this Court in Criminal Miscellaneous No. 3059 of 2015 vide order dated 17.02.2023.

Learned counsel for the petitioners has also submitted that this is a malicious prosecution which has been launched as a counter blast to the earlier F.I.R. filed by the petitioner no.1 and the present F.I.R. was filed after delay of three days.

Considering the facts that the petitioners are brother-



in-law and sister-in-law of the informant and are residing in the same house, there is case and counter case between the parties and the F.I.R. lodged by the petitioner no.1 against the prosecution side has been quashed by this Court in Criminal Miscellaneous No. 3059 of 2015 inasmuch as, there is delay of three days in filing the present F.I.R. and also 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*, the malicious prosecution of the petitioners on the hands of the informant cannot be allowed.

In that view of the matter, this quashing application is allowed.

Accordingly, the F.I.R. vide Begusarai Town P.S. Case No.805 of 2013 (G.R. No. 5232 of 2013) registered for the offences under Sections 341, 448, 504, 323 and 379/34 of the Indian Penal Code including the order dated 05.02.2014 passed by the learned Chief Judicial Magistrate, Begusarai and all consequential proceedings arising out of the said FIR are quashed in the interest of justice.

(Sandeep Kumar, J)

Ranjeet/-

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