

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.51311 of 2016

Arising Out of PS. Case No.-1851 Year-2012 Thana- PATNA COMPLAINT CASE District-
Patna

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1. Rahul Anand and Anr Son of Sri. B.P. Sinha
 2. Kawaita Anand Wife of Sri Rahul Anand Both resident of Mohalla Kautilya Nagar, P.S. Hawai Adda Within the township of Patna. Presently residing at 12214, Falls Road, Potomac, MD 20854, USA.

... .. Petitioner/s

Versus

1. State Of Bihar and Anr
2. Dr. Seema Kumari wife of late Dr. Shashi Shekhar , Daughter of Sri Rajeshwar Prasad Sinha Advocate residing at Mohalla Makhania Kuan Road, P.S Pirbahore, District-Patna.

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Sachin Kumar
For the Opposite Party/s : Mr.Sri Gopesh Kumar

CORAM: HONOURABLE MR. JUSTICE SANDEEP KUMAR
ORAL ORDER

2 12-04-2023 Heard the parties.

This application has been filed for quashing the order dated 29.08.2016 in Complaint Case No. 1851 © of 2012 passed by learned A.C.J.M., Patna, registered under Sections 323/34, 504/34 and 506/34 of the Indian Penal Code.

The prosecution story in short is given hereinbelow:-

The complainant, who on date of complaint was a student of M. D. in Katihar Medical College, Katihar, was married with Late Dr. Shashi Shekhar on 20th February, 2009



according to Hindu rites and has given birth to a male child on 7th March 2010.

It is further stated that on 4th December 2010 the husband of the complainant Dr. Shashi Shekhar committed suicide and the shradh was performed on 9th December, 2010 and on the same day all the accused persons abused, assaulted and tried to kill the complainant by pressing her neck. It is further alleged that the accused persons snatched the baby of the complainant and forcefully ousted her from the house, keeping all her ornaments and all other articles. It is also the case of the complainant that with regard to the alleged aforesaid occurrence she lodged Complaint Case No.3352 (C) of 2010 in which cognizance has been taken against accused Sujata Singh and Basant Singh under Section 498A of the Indian Penal Code and 3/4 Dowry Prohibition Act.

The further case of the complainant is that when on 7th March, 2011 she along with her brother Chandra Shekhar @ Munna went to meet her child on his birthday then her mother-in-law Sujata Singh, father-in-law Basant Singh and Devar Chandra Shekhar @ Monu all three started beating her and snatched her bag which contain money and with regard to the said occurrence she lodged Complaint Case No. 615 (C)



2011 in the Court of Chief Judicial Magistrate, Patna which is now pending in the Court of Sri Ghan Shyam Singh, Judicial Magistrate I" Class.

The complainants further case is that on 1 july, 2012 at 9 AM when she along with her brother Chandra Shekhar went to meet her child in the in-laws house at golghar purported to be in light of order of the Hon'ble Patna High Court then all the accused persons surrounded and started beating her and Sasant Singh pulled her by catching her hand and accused Rahul Anand pushed her by catching her neck and all the accused persons ousted the complainant beating her and in that sequence accused Chandra Shekhar @ Monu snatch her chain worth Rs. 15000/- and refusal by Gandhi Maidan Police Station to register a case the complainant filed the present complaint case.

It has been submitted by the learned counsel for the petitioners that the petitioner no.1 is the brother-in-law (Nandosi) and petitioner no.2 is the sister-in-law (Nanad) of the complainant and they are residing in United States of America (USA) since 2006 with their children. The petitioner no.1, after completing his studies from Harvard University and Cornell University is posted in the International Monetary Fund (IMF),



U. S. since 2010.

It has further been submitted by the learned counsel for the petitioners that because of the death of the brother of the petitioner no.2, the relationship between the families of the petitioners and the opposite party no.2 has become bad and therefore, a number of litigations are pending between the parties, and because of the same, these petitioners have been made accused in the present case.

Mr. Shailendar Kumar Sinha, learned counsel for the petitioners also submits that it is a malicious prosecution only to harass the petitioners who are well placed in U.S.A.

Learned counsel for the opposite party no.2 has argued that there is an allegation of assault against the petitioners, and therefore, it is not a fit case for quashing.

I have gone through the complaint and find that this complaint has been filed only with a view to harass the petitioners and this kind of malicious prosecution should be nipped at the bud.

Considering the law laid down by the Hon'ble Supreme Court in the case of *Punjab National Bank vs Surendra Prasad Sinha* 1993 Supp (1) 499 and *State of Haryana Vs. Bhajan Lal*, 1992 Supp (1) SCC 335, this



application is allowed.

The order dated 29.08.2016 in Complaint Case No. 1851 © of 2012 passed by learned A.C.J.M., Patna is hereby quashed.

(Sandeep Kumar, J)

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