

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.23056 of 2015

Arising Out of PS. Case No.-13 Year-2014 Thana- MAHILA P.S BAGHA District- West
Champaran

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Krishnamohan Pathak Son of Sardha Pathak, Resident of Village- Belwarpatti
P.S.- Thakarahan, District- West Champaran.

... .. Petitioner/s

Versus

1. State Of Bihar
2. Shobha Tiwari Daughter of Sudarshan Tiwari, resident of Village-Patehara,
P.S.- Laukariya, District- West Champaran. At present resident of Village-
Patkhauri, P.S.- Patkhauri, P.O., District- West Champaran.

... .. Opposite Party/s

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Appearance :

For the Petitioner/s	:	Mr.Bimlesh Kumar Pandey, Advocate
For the Opposite Party/s	:	Mr.Ram Anurag Singh,APP
For the Informant	:	Mr. Awadhesh Kumar Mishra, Advocate
		Mr. Shiv Pujan Sahay, Advocate
		Mr. Raj Rani Chaudhary, Advocate

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CORAM: HONOURABLE MR. JUSTICE RAJIV ROY
ORAL ORDER

5 13-02-2023 Heard Mr. Bimlesh Kumar Pandey, learned counsel

for the petitioner, Mr. Awadhesh Kumar Mishra, learned counsel

for the informant and learned APP for the State.

The petitioner has challenged the cognizance order dated 20.04.2015 passed by learned S.D.J.M., Bagaha, West Champaran by which cognizance under Section 376(2)(f) of the Indian Penal Code has been taken.

As per the prosecution story, the lady alleged that the petitioner being a practicing Advocate developed illicit relationship with her and further took Rs. 80,000/- for providing 5 ‘*dhur*’ of land and not only he failed to live up the promise,



when she went to the Court campus, Bagaha and complained about it, she was thrashed with the help of his brothers.

Accordingly, Bagaha Mahila P.S. Case No. 69 of 2013 was instituted. Immediately thereafter, the petitioner came to compromise table and started keeping her with him but once again, when she wanted the land to be executed in her favour, he stated that without providing Rs. 50,000/- from her father, he cannot do anything and lastly, allegation is of ousting her from rented house after the assault.

After the cognizance was taken, the petitioner once challenged the cognizance order by the present petition. A perusal of paragraph-2 of the petition shows that a vague statement has given as under :

“2. That the petitioner has not moved before this Hon’ble High Court for quashing the order dated 20.04.2015.”

The matter was taken up by a Co-ordinate Bench on 18.09.2015 which called for the case diary and further stayed the proceeding.

The opposite party no. 2 appeared and a counter affidavit filed in which beside supporting the prosecution story in paragraph- 4 of the petition that the petitioner earlier moved vide Cr.WJC No. 605 of 2014 which was dismissed and the



same has been suppressed inasmuch as it has not been incorporated in paragraph 2 of the petition.

The counter affidavit was served to the learned counsel for the petitioner on 05.03.2020 and the matter is presently been taken up on 13.02.2023. Almost three years lapsed and no petition was filed by way of either supplementary affidavit or a rejoinder to narrate the reason why the same fact was not incorporated in paragraph 2 of the said petition.

Taking into account the conduct of the petitioner who is a practicing lawyer at Civil Court, Bagaha having complete knowledge of the laws/rules/regulations relating to filing of the petition and having suppressed the same firstly, with the lawyer concerned and secondly, with this Court, no relief can be extended to him and the present petition as such, stands dismissed.

However, the petitioner will have the liberty to raise all the issues before the appropriate Court at an appropriate stage in his defence.

The petition stands dismissed.

(Rajiv Roy, J)

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