

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.33110 of 2019

Arising Out of PS. Case No.-497 Year-2017 Thana- RUPASPUR District- Patna

-
1. SANJAY KUMAR MITRA Son of Late Lakshmi Narayan Mitra Resident of B/73, P.T.S., N.T.P.C., Kahalgaon, Bhagalpur, P.S. - N.T.P.C., District - Bhagalpur.
 2. Kumkum Mitra Wife of Sanjay Kumar Mitra Resident of B/73, P.T.S., N.T.P.C., Kahalgaon, Bhagalpur, P.S. - N.T.P.C., District - Bhagalpur.
 3. Rajeev Ranjan Mitra Son of Sanjay Kumar Mitra Resident of B/73, P.T.S., N.T.P.C., Kahalgaon, Bhagalpur, P.S. - N.T.P.C., District - Bhagalpur.
 4. Rita Mitra Daughter of Sanjay Kumar Mitra Resident of B/73, P.T.S., N.T.P.C., Kahalgaon, Bhagalpur, P.S. - N.T.P.C., District - Bhagalpur.

... .. Petitioner/s

Versus

1. THE STATE OF BIHAR
2. Sujata Kumari Wife of Manoj Kumar Mitra Resident of Veena Vihar Apartment, Flat No. 305 (C), P.S.- Rupaspur, District - Patna.

... .. Opposite Party/s

with

CRIMINAL MISCELLANEOUS No. 65008 of 2019

Arising Out of PS. Case No.-497 Year-2017 Thana- RUPASPUR District- Patna

MANOJ KUMAR MISHRA @ MANOJ KUMAR MITRA Son of Sanjay Kumar Mishra Resident of B/73, P.T.S., N.T.P.C., Kahalgaon, Bhagalpur, P.S.- N.T.P.C., District-Bhagalpur.

... .. Petitioner/s

Versus

1. The State of Bihar
2. Sujata Kumari Wife of Manoj Kumar Mitra Resident of Veena Vihar Apartment, Flat No.305 (C), P.S.-Rupaspur, District-Patna.

... .. Opposite Party/s

with

CRIMINAL MISCELLANEOUS No. 10668 of 2021

Arising Out of PS. Case No.-1401 Year-2018 Thana- BHAGALPUR COMPLAINT CASE
District- Bhagalpur

-
1. SUJATA KUMARI D/o Mithilesh Prasad Sinha, W/o Manoj Kumar Mitra Resident of Bishnupanna Niketan Dwarika High School, Uttari Mandiri, Bansghat, Police Station-Buddha Colony, District-Patna.



2. MADHURI DEVI @ MADHUYE DEVI W/O MITHILESH PRASAD SINHA Resident of Bishnupanna Niketan Dwarika High School, Uttari Mandiri, Bansghat, Police Station-Buddha Colony, District-Patna.
3. ALOK RANJAN S/O MITHILESH PRASAD SINHA Resident of Bishnupanna Niketan Dwarika High School, Uttari Mandiri, Bansghat, Police Station-Buddha Colony, District-Patna.
4. PRAKASH KUMAR SINHA S/O KAMAL KISHORE SINHA Resident of Mohalla- Sipahi Tola Road, Near Sinha Public School, Police Station-K.Hat, District-Purnea.

... .. Petitioner/s

Versus

1. The State of Bihar
2. Manoj Kumar Mitrea S/o Sanjay Kumar Mitra Resident of Mohalla-Buddha Vihar Colony, near Chethariya Peer, Kahalgaon, Police Station-Kahalgaon, District-Bhagalpur at present B-73, T.T.S. N.T.P.C., Police Station-N.T.P.C., District-Bhagalpur.

... .. Opposite Party/s

Appearance :

(In CRIMINAL MISCELLANEOUS No. 33110 of 2019)

For the Petitioner/s : Mr.Sanjeev Kumar Shrivastava, Advocate

For the Opposite Party/s : Mr.Rajendra Nath Jha, APP

(In CRIMINAL MISCELLANEOUS No. 65008 of 2019)

For the Petitioner/s : Mr.Sanjeev Kumar Shrivastava, Advocate

For the Opposite Party/s : Mr.Anil Kumar, APP

(In CRIMINAL MISCELLANEOUS No. 10668 of 2021)

For the Petitioner/s : Mr.Bipin Kumar, Advocate

For the Opposite Party/s : Mr.A.G.

CORAM: HONOURABLE MR. JUSTICE SANDEEP KUMAR
ORAL ORDER

6 15-05-2023 Heard learned counsel for the petitioners and learned
APP for the State.

Ref:- Cr. Misc No. 33110 of 2019

This application has been filed for quashing of order dated 22.11.2018 passed by learned A.C.J.M-II, Danapur in connection with Rupaspur P.S. Case No. 497 of 2017/G.R. No. 4120 of 2017 by which learned Magistrate has taken cognizance



against the petitioners for the offences under Sections 498A, 494, 34 of the Indian Penal Code.

The settlement between the parties has been failed, therefore, this case is being heard on merits.

In view of the allegations levelled against the petitioners, this Court is not inclined to quash this application. Therefore, this application is dismissed with liberty to the petitioners to raise all the grounds at the stage of framing of charge.

Ref:- Cr. Misc. No. 10668 of 2021

This application has been filed for quashing of order dated 09.08.2019 passed by learned Chief Judicial Magistrate, Bhagalpur in Complaint Case No. 1401 of 2018 by which learned Magistrate has taken cognizance against the petitioners for the offences under Sections 385, 34 of the Indian Penal Code.

Complainant is the husband of the petitioner. *Prima facie*, it appears to be a malicious prosecution filed against the petitioners as no offence is made out against them.

In view of the law laid down by the Hon'ble Supreme Court in the case of *State of Haryana Vs. Ch. Bhajan Lal & Others* reported in *AIR 1992 SC 604*, this application is



allowed. The impugned order dated 09.08.2019 passed by learned Chief Judicial Magistrate, Bhagalpur in Complaint Case No. 1401 of 2018 is hereby quashed in the interest of justice.

Ref :- Cr. Misc. No. 65008 of 2019

This application has been filed for quashing of the order dated 22.11.2018 passed by learned A.C.J.M-II, Danapur in connection with Rupaspur P.S. Case No. 497 of 2017 by which learned Magistrate has taken cognizance against the petitioner for the offences under Sections 498A, 494, 34 of the Indian Penal Code.

As per F.I.R, the marriage of the informant was solemnized with Manoj Kumar (petitioner) in the year 2002, thereafter, she went to her matrimonial home and started leading her conjugal life. It is alleged that after some years, the petitioner along with accused persons started torturing her and demanded money. It is further alleged that the petitioner along with accused persons forcibly transferred a property in question which belonged to the informant in the name of petitioner's brother, namely, Manish Kumar Vishwajeet and they ousted the informant from her matrimonial home.

In view of the materials available on record, this Court is not inclined to interfere in the matter at this stage.



Accordingly, this application is disposed of with a liberty to the petitioner to raise all the grounds at the stage of framing of charge.

(Sandeep Kumar, J)

Harsh/

U		T	
---	--	---	--

