

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.7594 of 2017

Arising Out of PS. Case No.-69 Year-2016 Thana- PATNA COMPLAINT CASE District-
Patna

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1. Lt. Col. Nanak Chand Chaudhary @ Nanak Chaudhary son of Sri Summer Singh, Resident of Village- Mithouli, P.O. Mithouli, P.S. Mant, District- Mathua Uttar Pradesh, Presently posted at OIC Pension Cell, MP Dte MP 5 and 6 Adjutant General Branch, IHQ of MoD Army West Block- III, R.K. Puram, New Delhi- 110066.
 2. Maj. Raj Kamal Chattopadhyay @ Maj. Raj Kumar Chattopadhyay S.L.- 04924L @ S.N.-4924L son of Sri Sukumar Banerjee, Resident of Village- Gopi Nagar, P.O. Khamarchandi, P.S. Chandan Nagar, District Hooghli West Bengal, presently posted as Signal Records, Jabalpur Cantt. Madhya Pradesh- 901124.
 3. Capt. Ashvin Kumar Keshavji Delvadia @ Capt. A.K. Delvadia S.L-05155Y @ S.N.- 5155Y son of Sri Keshavji, Resident of Village- Lalpur, P.O. Lalpur, P.S. Lalpur, District Jamnagar Gujrat- 361170, presently posted at Records, the Bihar Regiment, Danapur Cantt. Danapur, District Patna Bihar- 908765.
 4. Sub. Ravi Kant J.C.- 559861W Sub/Clk. Retd. son of Late Janak Singh, Resident of Village - Maila, P.O. Maila, P.S. Jaisinghpur, District Kangra (Himachal Pradesh) 176089.

... .. Petitioner/s

Versus

1. The State of Bihar
2. Smt. Ranjana Devi wife of Hawaldar Dharmendra Prasad (S.No. 4279171N) Clk., Resident of New Defense Colony, Raghurampur (Hanuman Nagar), P.O. Danapur Cantt., P.S. Sahpur, District- Patna.

... .. Opposite Party/s

Appearance :

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

For the Opposite Party/s : Ms. Indu Kumari Srivastava, A.P.P.

CORAM: HONOURABLE MR. JUSTICE SATYAVRAT VERMA

ORAL JUDGMENT

Date : 11-10-2023

Heard learned counsel for the petitioners and learned

A.P.P. for the State.

2. Today also no one appears on behalf of the opposite

party no. 2. The case was taken up on 06.10.2023 and thereafter



again on 09.10.2023 but on both occasions none had appeared on behalf of the opposite party no. 2.

3. The Court cannot wait endlessly for the learned counsel appearing on behalf of the opposite party no. 2.

4. The present application has been filed seeking quashing of the order dated 24.05.2016 passed by the learned Additional Chief Judicial Magistrate, Danapur, Patna in Complaint Case No. 69(C) of 2016 whereby cognizance of the offences under Sections 354 and 506 of the Indian Penal Code has been taken against the petitioners.

5. Learned counsel for the petitioners submits that the complainant alleges that she is wife of Havildar Dharmendra Prasad who was posted in the office of Records, Bihar Regiment, Danapur before the date of occurrence dated 01.01.2015, thereafter her husband returned to Cantt. after staying approximately four years and six months at Bihar but the petitioners in connivance with Havildar, namely, Narendra Kumar submitted charge-sheet against her husband forcing her to live separately from her husband for which a legal notice dated 27.03.2015 was sent to the petitioner no. 1 but still her husband was posted at Silchar where he is still posted. It is next alleged that petitioners no. 1, 2 and 3 demanded Rs.25,000/- on 01.01.2015 for the posting of her



husband and also demanded Rs.15,000/- for outliving permission and Rs.10,000/- for C.I.L.Q. from her husband. Further, when she went to the Military Hospital at Danapur Cantt. she was assaulted with intention to outrage her modesty. It is next alleged that her husband sent letters to the concerned officials in this regard but no action was taken thereafter her husband who is posted at Silchar was also abused by his superior.

6. Learned counsel for the petitioners submits that from bare perusal of the allegation as alleged in the complaint petition, it would manifest that the same appears to be inherently improbable and patently absurd and at the same time is malicious as the complainant being aggrieved by the posting of her husband who at Silchar with a view to spite vengeance has instituted the complaint case to harass the petitioners who are posted with the Army in the rank of Lieutenant Colonel, Major, Captain and Subedar respectively. It is further submitted that prior to taking cognizance when inquiry was conducted, in the inquiry the complainant, her husband and son were examined who are interested witnesses. It is further submitted that the Indian Army is known for its discipline, good behaviour and punctuality and if any Army Personnel has any grievance regarding his posting, promotion, health etc. he has to put his grievance for its redressal



to the specified officer/authority maintaining the channel of command as would manifest from the regulation of the Army as contained in Volume II (Revised Addition, 1987) and no one is allowed to break the channel of command but the husband of the complainant has violated this channel of command for which proceeding has been initiated against him as would be evident from Annexure-4 to this application. It is next submitted that no Army Personnel can question his posting and deputation except in certain unforeseen situation but the husband of the complainant through the complainant has tried to malign the Army by levelling false allegation that bribe was being demanded for the posting of her husband when the complaint does not disclose the time and the place where the money was demanded, this further demonstrates that the complaint petition was actuated by mala fides. Learned counsel for the petitioners submits that the allegation under Sections 354 and 506 of the Indian Penal Code is ornamental in nature.

7. Learned A.P.P. for the State also is not in position to rebut the submission of the learned counsel for the petitioners.

8. Considering the submissions made by the learned counsel for the petitioners and in view of the submissions recorded hereinabove, the order dated 24.05.2016, passed by the learned



Additional Chief Judicial Magistrate, Danapur, Patna, in Complaint Case No. 69(C) of 2016, whereby cognizance has been taken against the petitioners under Sections 354 and 506 of the Indian Penal Code, is hereby quashed.

9. Accordingly, this application is allowed.

(Satyavrat Verma, J)

Kundan/-

AFR/NAFR	N.A.
CAV DATE	N.A.
Uploading Date	12.10.2023
Transmission Date	12.10.2023

