

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.55097 of 2022

Arising Out of PS. Case No.-774 Year-2018 Thana- JEHANABAD COMPLAINT CASE
District- Jehanabad

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1. Priyanka Kumari @ Priyanka Kumari Priyadarshini Wife of Manish Kumar R/V and Post office- Rampur Bara, P.S- Pali, Dist- Jehanabad
 2. Manish Kumar Son of Vijay Sharma R/V and Post office- Rampur Bara, P.S- Pali, Dist- Jehanabad

... .. Petitioner/s

Versus

1. The State of Bihar
2. Shyamdeo Yadav Son of Late Dwarika Prasad R/V- Pinjaur, P.S- Parasbigha, Dist- Jehanabad

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Sanjeev Ranjan
For the Opposite Party/s : Mr.Ashok Kumar Singh

CORAM: HONOURABLE MR. JUSTICE SANDEEP KUMAR
ORAL ORDER

4 04-07-2023 Heard learned counsel for the parties.

This application has been filed for quashing the order dated 07.06.2022, in Complaint Case No. 774 of 2018 passed by learned Judicial Magistrate, 1st Class, Jehanabad by which learned Magistrate has taken cognizance under Sections 323, 504, 506 of the Indian Penal Code.

The petitioners are purchasers from son of Nathun Miyan. Nathun Miyan had succeeded in the Title Suit as well as in Title Appeal. The opposite party no.2 is purchaser from Usman Miyan who has lost in the Title Suit and Title Appeal.

It has been submitted by the learned counsel for the



petitioners that this prosecution has been launched by the petitioners with an ulterior motive and no case under Section 504 is made out in view of the judgment of the Hon'ble Supreme Court in the case of ***Vikram Johar Vs. State of U.P (2019) 14 SCC 207.***

The learned counsel for the opposite party no.2 submitted that he has purchased the land in question earlier from Usman Miyan and got his land mutated, therefore, the offences as alleged by him are made out.

Considered the submissions of the parties. The opposite party no.2 is purchaser from a person who has lost in Title Suit and Title Appeal. If he has any grievance, he can claim the refund of money from his vendor.

Paragraph 24 of the judgment of the Hon'ble Supreme Court in the case of ***Vikram Johar Vs. State of U.P (supra)*** reads as follows:-

Now, we revert back to the allegations in the complaint against the appellant. The allegation is that the appellant with two or three other unknown persons, one of whom was holding a revolver; came to the complainant's house and abused him in filthy language and attempted to assault him and when some neighbours arrived there the appellant and the other persons accompanying him fled the spot. The above allegation taking on its face value does not satisfy a the ingredients of Sections 504 and 506 as has been enumerated by this Court in the above two judgments. The intentional insult must be of such a degree that should provoke a person to break the



public peace or to commit any other offence. The mere allegation that the appellant came and abused the complainant does not satisfy the ingredients as laid down in para 13 of the judgment of this Court in Fiona Shrikhande.

No offence is made out against the petitioners in view of the law laid down by the Hon'ble Supreme Court in the case of ***Vikram Johar Vs. State of U.P (supra)***.

With the aforesaid observations and directions, this application is allowed.

Accordingly, the F.I.R. vide 07.06.2022, in Complaint Case No. 774 of 2018 registered for the offence under Sections 323, 504, 506 of the Indian Penal Code and all other consequential proceedings arising out of the aforesaid F.I.R. including the order dated 07.06.2022, passed by learned Judicial Magistrate, 1st Class, Jehanabad are hereby quashed in the interest of justice.

(Sandeep Kumar, J)

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