

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.70946 of 2019

Arising Out of PS. Case No.-86 Year-2017 Thana- RUPASPUR District- Patna

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1. KHUSHBOO KUMARI Wife of Sudhir Kumar Resident of Shashi Raj Enclave, Aparna Bank Colony, Phase-2, Ramjaipal Road, Danapur, P.S.-Rupaspur, District-Patna.
 2. Sunita Devi Wife of Chandra Shekhar Prasad Ray Resident of Shashi Raj Enclave, Aparna Bank Colony, Phase-2, Ramjaipal Road, Danapur, P.S.-Rupaspur, District-Patna.
 3. Chandra Shekhar Prasad Ray @ Chandra Shekhar Son of Late Ramvivek Ray Resident of Shashi Raj Enclave, Aparna Bank Colony, Phase-2, Ramjaipal Road, Danapur, P.S.-Rupaspur, District-Patna.
 4. Vaibhav Mani Son of Chandra Shekhar Prasad Ray Resident of Shashi Raj Enclave, Aparna Bank Colony, Phase-2, Ramjaipal Road, Danapur, P.S.-Rupaspur, District-Patna.
 5. Mithlesh Prasad Rai Son of Late Ramvivek Ray Resident of Shashi Raj Enclave, Aparna Bank Colony, Phase-2, Ramjaipal Road, Danapur, P.S.-Rupaspur, District-Patna.

... .. Petitioner/s

Versus

1. The State of Bihar
2. Sudhir Kumar Son of Vinod Kumar Yadav Resident of Village-Lalpokhar, P.S.-Sadar, District-Vaishali.

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. Pranav Kumar Ms. Kumari Seema Singh, Advocates
For the State	:	Mr. Dinesh Singh, APP

CORAM: HONOURABLE MR. JUSTICE SANDEEP KUMAR
ORAL ORDER

5 26-04-2023 Heard learned counsel for the parties.

This application has been filed for quashing the order dated 08.04.2019 by which learned Magistrate has taken cognizance against the petitioners in Rupaspur P.S. Case No. 86/2017, G.R. No. 1127/2017 registered for the offence under sections 341, 323, 342, 504, 328/34 of the Indian Penal Code.



As per prosecution case, the opposite party no. 2 gave his fardbeyan before police officer, Sadar Hajipur and told that his wife Khushboo Kumari told him on phone that she arrived from Poona and requested her husband to come to Patna. Informant reached Patna at 11:30 A.M., where all the named accused persons were present and took him away to the court and asked him to prepare an affidavit and when he refused, he has been assaulted and forced to sign the affidavit. His brother in law Vaibhav Mani provide him water for drinking and he became unconscious and the family members of the informant admitted him in nursing home of Dr. Arvind Kumar at Hajipur. The aforesaid fardbeyan was forwarded to the Rupaspur police station and a formal case is instituted.

Due to a matrimonial dispute the opposite party no. 2, the husband of the petitioner no. 1 has filed a false case against all the petitioners as has been submitted by the learned counsel for the petitioners. The learned counsel for the opposite party no. 2 has supported the F.I.R. From the reading of the F.I.R., it appears that this is a malicious prosecution and in view of the law laid down by Hon'ble Supreme Court in the case of *State of Haryana vs. Bhajan Lal, (1992) Supp (1) SCC 335*, this Application Is Allowed.



The order dated 08.04.2019 passed in Rupaspur P.S.
Case No. 86/2017, G.R. No. 1127/2017 against the petitioners
are hereby quashed.

(Sandeep Kumar, J)

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