

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.19095 of 2023

Arising Out of PS. Case No.-840 Year-2021 Thana- GAYA COMPLAINT CASE District-
Gaya

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1. Kumari Dipika Bharti D/O Shravan Kumar Resident Of Village- Baidyanath Sahaya Lane, Manpur, Patwa Toli, Post And P.S.- Buniyadganj, District- Gaya, Bihar.
 2. Kumari Rupanjali Bharti D/O Shravan Kumar Resident Of Village- Baidyanath Sahaya Lane, Manpur, Patwa Toli, Post And P.S.- Buniyadganj, District- Gaya, Bihar.
 3. Kumari Anshu Bharti D/O Shravan Kumar Resident Of Village- Baidyanath Sahaya Lane, Manpur, Patwa Toli, Post And P.S.- Buniyadganj, District- Gaya, Bihar.

... .. Petitioner/s

Versus

1. The State Of Bihar
2. Manoj Kumar S/O Sarju Saw Resident Of Village- Baidyanath Sahaya Lane, Manpur, Patwa Toli, Post And P.S.- Buniyadganj, District- Gaya, Bihar.

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Sujit Kumar
For the Opposite Party/s : Mr. Jagdhar Prasad

CORAM: HONOURABLE MR. JUSTICE SANDEEP KUMAR
ORAL ORDER

10 01-07-2024

This is an application for quashing the order dated 19.10.2022 passed by the learned J.M.F.C., Gaya in connection with Complaint Case No. 840 of 2021 by which the court below has taken cognizance for the offences under Sections 211, 289, 120B read with Section 34 of the I.P.C.

2. No one appears for the O.P. No. 02 despite valid service of notice. The petitioners are the niece of the O.P. No.



02.

3. As per the complainant, all three accused persons as named in the complaint petition mentally tortured him and his family and forced them to transfer ancestral property in the favour of all accused persons. They have already got their share from the property which is owned by their father, and now they want shares of other family members. On refusal, they threatened all the family members to falsely implicate in false criminal cases. They have also murdered their own sister namely *Late Kumari Anjali Bharti* on 17.07.2021 by giving her wrong medicines.

4. Learned counsel for the petitioners submits that on the basis of written complaint filed by the complainant namely *Manoj Kumar* before the learned C.J.M, Gaya, the complainant was examined on S.A. (Solemn Affirmation) as well as on behalf of the prosecution examined three enquiry witness namely *Shrawan Kumar, Sarju Sao* and *Juli Devi*. He further submits that allegations levelled against the petitioners are completely false, baseless and misleading. The Petitioners are innocent, have committed no offence and have been falsely implicated in this case only to save the informant and his associates in connection with Mahila P.S. Case No. 36/2021



lodged by the Petitioner No. 1.

5. Learned counsel for the petitioners further submits that as a matter of fact no such occurrence has ever taken place in the manner as alleged by the informant, especially with reference to the petitioners and the said occurrence against the petitioners appears to be definitely a case of plantation and false implication in order to harass and humiliate the petitioners with ulterior motive and evil design. He further submits that the allegation as alleged by the informant against the petitioners are totally false, fabricated and manufactured.

6. Learned counsel for the petitioners further submits that from perusal of the first information report it appears that the petitioners have not played any role in the alleged crime. The statement of the complainant itself shows that there is a dispute with regard to division of share of the ancestral property, in between the petitioners and on account of said dispute, the father of the petitioners filed the present case through his brother namely *Manoj Kumar* being the complainant. He further submits that due to dispute over the ancestral property, the name of the petitioners have been implicated in false case lodged by the complainant.



7. Learned counsel for the petitioners further submits that from perusal of the case record, it itself shows that the complainant is the uncle of the petitioners and the witnesses of the present case are the grandfather, father, uncle, brother and step mother of the petitioners, all are accused in the Mahila P.S. Case No. 36/2021, which was lodged by the petitioner no. 1 prior to the present complaint case. He further submits that prior to the present complaint case, the petitioner no. 1 namely *Kumari Dipika Bharti* has lodged a case against complainant and all the witnesses in the present case, bearing Mahila P.S. CaseNo. 36/2021 dated 06.09.2021 for the punishable offences Under Section 354(A), 354(B), 324/34 of Indian Penal Code because after death of the mother of the petitioners, father of the petitioners physically abused them, thereafter uncle of the petitioners (present complainant) also physically abused the petitioners and when the petitioners denied to cooperate then they have been assaulted by them. In the same manner, the uncle of the petitioners also committed rape with the *Anjali Bharti* (deceased sister of the petitioner) and *Kumari Rupanjali Bharti*. The father of the petitioners also committed rape upon *Kumari Anjali Bharti*, therefore, later on she died and after her death, petitioners lodged a case against the accused persons.



8. Learned counsel for the petitioners further submits that there is vital contradiction on the S.A. of the complainant as well as the statement of the Enquiry witnesses, they have not produced any documents in support their contents as mentioned in the complaint petition, in spite of that, the false complaint case is running against the petitioners. He further submits that from bare perusal of the case records, it shows that the complainant and his other associates falsely stated that the death of her sister *Kumari Anjali Bharti* happened due to use of wrong medicine by the petitioner no. 1 which is totally false and concocted story, it is fact that she died due to heavy shock because her father and uncle physically abused her and have committed rape with her and to save their own skin they have not allowed her post-mortem, she died at Annugrah Narayan Medical College.

9. Learned counsel for the petitioners further submits that the father of the petitioners has also filed another complaint case no. 117 of 2022 against the petitioners, to harass and humiliate the petitioners. He further submits that another case has also been filed by the daughter of step mother of the petitioners namely *Juli kumari* against the present petitioners and others bearing complaint case no. 04/2022 dated 20.03.2022



u/s 354, 354(b), 323, 324, 376/34 of Indian Penal Code and section 6 of POCSO Act.

10. Learned counsel for the petitioners further submits that the petitioner *Kumari Dipika Bharti* is physically challenged and she is not able to move freely, with regard to her disability a Unique Disability ID has been issued in her favour showing that she is 62% disable, which is showing that the entire allegations of the complainant is totally false and fabricated against the petitioner. He further submits that after death of the petitioners' mother, the father of the petitioners molested his own daughters and when they protested, he came with a divorced women namely *Juli Kumari* and wants to transfer his entire share of land between his second wife and his nephew and brother, when the petitioners objected, they were thrown out from the house, thereafter the complainant and father of petitioners filed several complaint against the petitioners and want to destroy the life of the petitioners. He further submits that the complainant has not disclosed in the complaint petition that how and for what reason the sister of the petitioners namely *Kumari Anjali Bharti* died. The silence of the complainant on this point showing that they want to hide the material facts in the present case.



11. From perusing the materials available on record it appears that the father and uncle of the petitioners are violating their own family members and are harassing them by filing a number of cases.

12. It appears to be a mala fide prosecution and this Court cannot be a mute spectator to the same. In these circumstances, in view of the law laid down by Hon'ble Supreme Court in the case of ***Bhajan Lal V/s State of Haryana; AIR (1992) SC 604***, this mala fide prosecution should not continue.

13. Accordingly, this application stands allowed and the impugned order dated 19.10.2022 passed by the learned J.M.F.C., Gaya in Complaint Case No. 840 of 2021 is hereby quashed.

(Sandeep Kumar, J)

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