

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.27147 of 2018

Arising Out of PS. Case No.-1316 Year-2016 Thana- BHAGALPUR COMPLAINT CASE
District- Bhagalpur

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1. Md. Siddique @ Md. Siddique Sah, son of Late Sagir Sah
 2. Md. Sadique Ali @ Md. Sadique Sah son of Md. Siddique Sah
 3. Md. Maqsood son of Md. Azim All residents of village - Simaria, Police Station - Kajraili, District - Bhagalpur.

... .. Petitioner/s

Versus

1. State of Bihar
2. Bibi Jairun Nisha wife of Md. Salahuddin Resident of Village - Rajpur, Police Station - Sabour, District - Bhagalpur.

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Md. Najmul Hodda, Advocate
For the Opposite Party/s : Mr. Sri Parmanand Kumar, APP

CORAM: HONOURABLE MR. JUSTICE SHAILENDRA SINGH
ORAL ORDER

4 02-12-2024 Heard Mr. Md. Najmul Hodda, learned counsel for the petitioners and Mr. Sri Parmanand Kumar, learned APP for the State.

2. The instant petition has been filed under Section 482 of the Code of Criminal Procedure, 1973 (in short 'Cr.P.C.') against the order dated 08.03.2018 passed by Court of A.C.J.M. Xth, Bhagalpur in Complaint Case No. 1316 of 2016 by which the cognizance of the offences under Sections 341, 323, 379, 504 and 506 of the Indian Penal Code has been taken and the petitioners have been summoned in respect of these offences.

3. Heard both the sides and perused the order



impugned and other relevant materials. In order to assail the order impugned, Mr Md. Najmul Hodda, learned counsel appearing for the petitioners has mainly taken the grounds that the marriage of the daughter of the petitioner No. 1 was solemnized with the son of the O.P. No. 2 on 19.08.2014 and after the marriage, the daughter of the petitioner No. 1 was tortured and also ousted from her matrimonial house for which she filed a Complaint Case No. 2334 of 2015 against the O.P. No. 2 and others and thereafter, a compromise talk took place in between both the parties and Sulahnama was also done vide Annexure-3 and certain conditions were fixed for complying the terms of the compromise (Sulahnama) by both the parties. But, thereafter, the accused of the Complaint Case No. 2334 of 2015, including the O.P. No. 2 of the present matter, did not comply with the terms and conditions of the said compromise rather resorted to file the Complaint Case No. 1316 of 2016, in which the order impugned has been passed, immediately within three days after the said compromise, which is in itself sufficient to show the *mala fide* intention on the part of the O.P. No. 2 in filing the Complaint Case No. 1316 of 2016 and ignoring these facts, the learned trial Court has taken cognizance of the alleged offences in mechanical manner and the allegations levelled by



the O.P. No. 2 are completely unbelievable and absurd.

This Court finds substance in the aforesaid grounds and it appears that the O.P. No. 2 filed the aforesaid Complaint Case in retaliation to the complaint filed by the daughter of the petitioner No. 1 and further, the allegations levelled by the O.P. No. 2 in her complaint appear to be absurd and not believable, as according to the statement made in the paragraph No. 6 of the Complaint, on 23.07.2016, the accused (petitioners) entered the house of the O.P. No. 2 and committed the alleged occurrence while as per Annexure-3 i.e., Sulehnama, on 24.07.2016 a Panchayati meeting was held in between both the parties in which they compromised on certain conditions.

4. Accordingly, this Court is of the view that the order impugned has been passed in mechanical manner and the same is not sustainable in the eye of law, so, it stands set aside and the present petition stands allowed.

(Shailendra Singh, J)

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