

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.32549 of 2023

Arising Out of PS. Case No.-425 Year-2010 Thana- PATNA COMPLAINT CASE District-
Patna

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1. Nitu Singh Daughter Of Krishna Singh, W/O Late Jitendra Kumar Wife Of Late Jitendra Kumar, Resident Of Muhalla - Banarasbank Chock, Yadupati Gali, P.S. - Town, District - Muzaffarpur
 2. Mithun @ Pansujit Kumar Son Of Krishna Singh Resident Of Muhalla - Banarasbank Chock, Yadupati Gali, P.S. - Town, District - Muzaffarpur
 3. Shushil Kumar Chaudhary @ Pappu Son Of Late Lal Babu Chaudhary Resident Of Muhalla - Banarasbank Chock, Yadupati Gali, P.S. - Town, District - Muzaffarpur
 4. Laxmi Devi Wife Of Krishna Singh Resident Of Muhalla - Banarasbank Chock, Yadupati Gali, P.S. - Town, District - Muzaffarpur
 5. Krishna Singh Son Of Late Chandradev Singh Resident Of Muhalla - Banarasbank Chock, Yadupati Gali, P.S. - Town, District - Muzaffarpur

... .. Petitioner/s

Versus

1. THE STATE OF BIHAR
2. Dr. RaJ Kumar S/O Late Ram Prasad pandit R/O- Village- Bari Khagaul, P.S.-Khagaul, District-Patna.

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Mahendra Thakur
For the Opposite Party/s : Mr.Amitesh Kumar

CORAM: HONOURABLE MR. JUSTICE SANDEEP KUMAR
ORAL ORDER

3 22-07-2024 Heard learned counsel for the petitioners and learned
APP for the State.

Interlocutory Application No. 01 of 2024

2. Mr. Krishna Prabhat, learned counsel appearing
for the intervenor, on the instruction, seeks to withdraw this
interlocutory application.

3. In view thereof, this Interlocutory Application



No. 01 of 2024 is dismissed as withdrawn.

4. In the present case, the petitioners are challenging the order dated 14.07.2010 passed by the learned Judicial Magistrate, 1st Class, Danapur in Complaint Case No. 425(C) of 2010 whereby the learned Magistrate has taken cognizance against the petitioners for the offence under Sections 380 of the Indian Penal Code.

5. As per the prosecution case, the accused persons came to the house of the complainant on motorcycle holding different weapons and took the daughter of the informant who is aged about 5 years. It has also been alleged that the accused persons also took away one attachi containing ornaments worth Rs. 40,000/-, cash Rs. 2,500/- and some papers.

6. The complainant of this case namely, Jitendra Kumar has died. One Raj Kumar was made party by the petitioners who is the brother of late Jitendra Kumar. He has also not appeared in this Court.

7. The petitioner no. 1 is the wife of late Raj Kumar and other petitioners are the family members of petitioner no. 1.

8. It has been submitted by learned counsel for the petitioners that the police investigated the case and filed final



form and thereafter on protest, the present complaint had proceeded. He also submits that the entire prosecution is *mala fide* in view of the Complaint Case No. 1147 of 2008 in which FIR was registered under Section 356(3) of the Indian Penal Code and subsequently, a Complaint Case No. 1589 of 2007 was filed under Section 498A of the Indian Penal Code.

9. Learned counsel submits that it is *mala fide* prosecution because of the matrimonial dispute between the petitioner no. 1 and the deceased Jitendra Kumar.

10. From the reading of the complaint petition, it appears that it is a counter blast to the matrimonial dispute between the late Jitendra Kumar and others. This kind of *mala fide* prosecution should not be allowed to continue.

11. Accordingly, this application is allowed.

12. The order dated 14.07.2010 passed by the learned Judicial Magistrate, 1st Class, Danapur in connection with Complaint Case No. 425(C) of 2010, is hereby quashed.

(Sandeep Kumar, J)

Ranjeet/-

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