

IN THE HIGH COURT OF JUDICATURE AT PATNA

CRIMINAL MISCELLANEOUS No.37699 of 2016

Arising Out of PS. Case No.-225 Year-2015 Thana- NAUBATPUR District- Patna

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1. Shushil @ Shushil Jee, son of late Indradeo Yadav, R/O village- Gonwan, P.S- Naubatpur, Distt.- Patna.
 2. Raj Kumar, son of late Indradeo Yadav, R/O village- Gonwan, P.S- Naubatpur, Distt.- Patna.
 3. Rabindra @ Mukhiya @ Rabindra Jee, son of late Indradeo Yadav, R/O village- Gonwan, P.S- Naubatpur, Distt.- Patna.
 4. Chandrabhushan @ Chandan, son of late Indradeo Yadav, R/O village- Gonwan, P.S- Naubatpur, Distt.- Patna.
 5. Shashi Bhushan, son of late Indradeo Yadav, R/O village- Gonwan, P.S- Naubatpur, Distt.- Patna.
 6. Shobha Kumari, wife of Raj Kumar, R/O village- Gonwan, P.S- Naubatpur, Distt.- Patna.
 7. Niva Devi, wife of Rabindra @ Mukhiya @ Rabindra Jee, R/O village- Gonwan, P.S- Naubatpur, Distt.- Patna.
 8. Runa Devi, wife of Shashi Bhushan, R/O village- Gonwan, P.S- Naubatpur, Distt.- Patna.
 9. Suchitra Kumari @ Suchitra Devi, wife of Chandrabhushan @ Chandan, R/O village- Gonwan, P.S- Naubatpur, Distt.- Patna.

... .. Petitioner/s

Versus

1. The State of Bihar
2. Archana Kumari, daughter of Prabha Kant Prabhat, R/O- village- Abgila, P.S- Rampur Chauram, Distt.- Arwal.

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Ashok Kumar Sinha, Advocate.
For the State : Md. Aslam Ansari, APP

CORAM: HONOURABLE MR. JUSTICE JITENDRA KUMAR
ORAL ORDER



10 17-09-2024

The present petition has been preferred by the petitioners under Section 482 Cr.PC for quashing and setting aside the impugned order dated 21.12.2015 passed by Sri Kumar Madhvendra, learned Judicial Magistrate, 1st Class, Danapur, Distt. Patna, in Naubatpur P.S. Case No. 225 of 2015.

2. The prosecution case as emerging from the written report dated 22.04.2015 addressed to Officer-in-Charge, Naubatpur Police Station, is that the informant/Opposite Party No. 2 was married with Mani Bhushan, whose name has been deleted from the array of the petitioners on the request of his counsel on 12.12.2009, as per Hindu rites and custom. As per the allegation, just after marriage, the husband of the informant, his brothers and sisters-in-laws (wives of brothers of her husband) who are petitioners herein started torturing and beating her. But later on, there was compromise. In the meantime, she was blessed with a son who is three years old. But after the birth of the son, her husband and the petitioners again started subjecting her to torturing. It is further alleged that her husband had illicit relationship with Runa Devi (wife of Shashi Bhushan), which was protested by her, on account of which, her husband and his family members subjected her to beating and deprived her even of food and demanded a four wheeler vehicle



and Rs.5,00,000/- as additional dowry and they threatened that in case of non-fulfillment of the additional demand of dowry, she would be killed and her son would be kidnapped. They also made false allegation regarding her character.

3. After investigation, charge sheet was submitted and cognizance of the offence under Sections 498A, 323, 504/34 of the Indian Penal Code and Section 3/4 of Dowry Prohibition Act was taken by learned Judicial Magistrate, 1st Class, Danapur, vide impugned order dated 21.12.2015 against the petitioners besides her husband.

4. Learned counsel for the petitioners submits that the petitioners are innocent and they have falsely been implicated in this case. They are separate in mess and business from husband of the informant and they have nothing to do with their matrimonial life. As a matter of fact, the marriage between the informant and her husband namely, Mani Bhushan is not working. Hence, only with intent to harass the whole family of the husband, the petitioners have been roped in the false case. Hence, the impugned order is liable to be set aside under Section 482 Cr.PC.

5. However, Md. Aslam Ansari, learned APP for the State defended the impugned order submitting that there is no



illegality or infirmity in the impugned order.

6. I considered the submissions advanced by both the parties and perused the materials on record.

7. From perusal of the written report of the informant, it transpires that the marriage between the informant and her husband (who is not a petitioner herein) is not working. It also appears that the allegation has been levelled by the informant mainly against her husband, but the petitioners (who are family members of her husband) have been roped in with intent to harass the whole family.

8. It has been consistently held by Hon'ble Supreme Court that tendency has developed to falsely implicate relatives of the husband in matrimonial dispute by way of general and omnibus allegation and if, such tendency is left unchecked, it could result in misuse of the process of the law. (refer to **Kahkashan Kausar @ Sonam & Ors. Vs. State of Bihar & Ors. (2022) 6 SCC 599**).

9. In the celebrated judgment of **State of Haryana vs Bhajan Lal [1992 Suppl (1) SCC 335]**, Hon'ble Supreme Court has held, amongst other things, where a criminal proceeding is manifestly attended with mala fide and/or where the proceeding is maliciously instituted with an ulterior motive



for wreaking vengeance on the accused and with a view to spite him due to private and personal grudge, the inherent power under Section 482 Cr.PC may be invoked by the Court to prevent the abuse of the process of Court and secure the ends of justice.

10. Hence, the impugned order is not sustainable in the eye of law. It is liable to be quashed and set aside under Section 482 Cr.PC to prevent abuse of the process of Court and to secure the ends of justice.

11. Accordingly, the present case is allowed quashing and setting aside the impugned order dated 21.12.2015 passed by Shri Kumar Madhvendra, learned Judicial Magistrate, 1st Class, Danapur, Distt. Patna, in Naubatpur P.S. Case No. 225 of 2015.

(Jitendra Kumar, J)

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