

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.56434 of 2021

Arising Out of PS. Case No.-119 Year-2020 Thana- SHEKHPURA COMPLAINT CASE
District- Sheikhpura

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1. VINOD KUMAR JHA Son of Late Devakant Jha Resident of village - Fathepur, P.s.- Gogri, Distt.- Khagaria.
 2. Manoj Kumar Singh not Mention At Present Resident of village - Munshi Barbigha P.S., Resident of village - Itarillia Tola, P.s.- Karakat (Kolarani), Distt.- Rohtas.

... .. Petitioner/s

Versus

1. The State of Bihar
2. Suraj Kumar Son of Mahesh Rajak Resident of village - NH82, Bihar Road, Sakal Dev Nagar, P.s.- Barbigha, Distt.- Sheikhpura.

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Dr. Anjani Pd. Singh, Adv.
For the Opposite Party/s : Mr. Binay Krishna, APP

CORAM: HONOURABLE MR. JUSTICE SATYAVRAT VERMA
ORAL ORDER

4 15-01-2024 1. Heard the learned counsel for the petitioners and the learned APP for the State along with learned counsel for the O.P. No.2 Ms. Vanshika.

2. The learned counsel for the petitioners submits that the present quashing application has been filed seeking quashing of the order dated 28.06.2021 passed by the learned District and Sessions Judge, Sheikhpura in Criminal Revision No.10/2021, whereby the order dated 18.01.2021 passed by the learned C.J.M., Sheikhpura in Complaint Case No.119c/2020, T.R. No.1595/2021 taking cognizance has been affirmed.

3. The learned counsel submits that petitioner no.1 is Officer-in-charge of Barbigha Police Station and petitioner no.2 is



posted as Munshi in Barbigha Police Station. It is next submitted that the O.P. No.2 herein is a practicing Advocate at Sheikhpura Civil Court. It is next submitted that the O.P. No.2 was having matrimonial dispute with his wife, accordingly, his wife instituted Barbigha P.S. Case No.96/2020 dated 27.04.2020 under Sections 341, 323, 307, 379, 315, 498A, 506 and 34 of the Indian Penal Code read with Sections 3 & 4 of the D.P. Act. The learned counsel next submits that since the wife of O.P. No.2 instituted the aforesaid case against the O.P. No.2 which perturbed him. It is further submitted that since the case was instituted by the wife of the O.P. No.2, as such, Sayed Faiyaz Shakib was appointed as an Investigating Officer of the case by the petitioner no.1. Since the case was being investigated and materials were transpiring in the investigation connecting the O.P. No.2 with the offence perturbed him, as such, the present false case came to be instituted with an allegation that petitioner no.1 along with petitioner no.2 came to the house of the O.P. No.2 and assaulted and abused him along with his family members on 27.04.2020 and prior to that also they had come on a complaint of his wife for making the O.P. No.2 understand. The learned counsel thus submits that it absolutely does not stand to reason that if what has been alleged by the O.P. No.2 is correct and the date of occurrence is 27.04.2020 then why the present complaint case came to be instituted on 04.06.2020 i.e.



after a delay of more than 36 days. It is also submitted that petitioners have absolutely no role in the investigation of the case but since the petitioner no.1 is the officer-in-charge of the P.S. and petitioner no.2 is Munshi, hence they have been implicated for the reasons best known to the O.P. No.2. It is also submitted that even presuming what has been alleged is true without admitting then it is not in dispute that a criminal case was instituted by the wife of the O.P. No.2 against the O.P. No.2 and if the police had gone to the house of the O.P. No.2 in discharge of their official duty then they were performing their duty, as such, sanction under Section 197 Cr.P.C. was required. It is next submitted that in absence of sanction under Section 197 Cr.P.C., the order of cognizance is rendered vulnerable. The learned counsel next submits that even from perusal of the allegation as alleged in the complaint, it would manifest that the same does not inspire confidence for the reason that there was inherent delay in instituting the complaint which gives an impression that it was instituted by way of an after thought. It is also submitted that the wife of the O.P. No.2 is staying at her parental home and thus to coerce the police into submission, the present false case came to be instituted.

4. The learned counsel for the O.P. No.2 opposes the submissions made by the learned counsel for the petitioners but then is not in a position to rebut the submissions of the learned



counsel for the petitioners that the wife of the O.P. No.2 had instituted the aforesaid F.I.R as recorded hereinabove and the fact that there was delay in instituting the complaint without any plausible explanation since the O.P. No.2 alleges that the date of occurrence is 27.04.2020 and the complaint came to be instituted on 04.06.2020. Further the learned counsel for the O.P. No.2 is not in a position to repel the submission of the learned counsel for the petitioners with regard to Section 197 of the Cr.P.C.

5. Considering the submissions made by the learned counsel for the petitioners, the order dated 28.06.2021 passed by the learned District and Sessions Judge, Sheikhpura in Criminal Revision No.10/2021, affirming the order of cognizance passed by the learned C.J.M., Sheikhpura dated 18.01.2021 in Complaint Case No.119c/2020, T.R. No.1595/2021, is hereby quashed.

(Satyavrat Verma, J)

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