

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.53150 of 2023

Arising Out of PS. Case No.-1806 Year-2019 Thana- GAYA COMPLAINT CASE District-
Gaya

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1. DR ABHAY NARAIN RAI S/O LATE JANG BAHADUR ROY R/O HOUSE NO. 54, JAIL ROAD, CHIRAINYATAND, P.S- RAMPUR, DISTT.- GAYA.
 2. DR. MRITUNJAY KUMAR SINGH S/O CHANDRA BHUSHAN SHARMA R/O NEAR OM KUNJ, WEST NUTAN NAGAR, P.S- CIVIL LINE, GAYA, DISTT.- GAYA.
 3. SANTOSH KUMAR S/O BINESHWAR PRASAD R/O VILLAGE- DHUSARI, P.S- ATRI, DISTT.- GAYA.

... .. PETITIONER/S

VERSUS

1. THE STATE OF BIHAR
2. ROHIT KUMAR S/O BACHHAN SINGH R/O VILLAGE- DHANAMA, P.S- BODH GAYA, DISTT.- GAYA.

... .. OPPOSITE PARTY/S

Appearance :

For the Petitioner/s	:	Mr. Rajesh Ranjan, Advocate
For the Opposite Party/s	:	Mr. Jagdhar Prasad , APP
For Opposite Party No. 2	:	Mr. Shailesh Kumar , Advocate

CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR SINGH
ORAL ORDER

4 04-03-2024 Heard learned counsel for the parties.

2. This application has been filed for quashing the order dated 28.07.2022 in connection with Complaint case no 1806 of 2016 passed by the learned Judicial Magistrate 1st Class Gaya, by which the learned Magistrate has taken cognizance against the petitioners for the offences under sections 323 , 341 and 384 read



with 34 of the Indian Penal Code .

3 . The prosecution case, in brief, is that O.P no.2 alleged that his mother namely Pushpa Devi aged about 50 years was suffering from fever and restlessness for which she was admitted in Abhay Institute of Medical Science Hospital. The O.P no.2 allegedly paid Rs. 70,000/- to the accused persons for her treatment. The O.P no.2 was not allowed to meet her mother. On 13/10/19 the O.P no.2 was called by the petitioner no.1 and 2 where he was asked to arrange Rs.1,00,000/- as his mother was in very serious condition and she was required to kept on ventilator. The O.P no.2 somehow managed to arrange Rs.1,00,000/- which was handed over to the petitioner no.3 who did not give money receipt. It was further alleged that after half an hour the petitioners handed over the dead body of his mother and when he asked about her death, he was assaulted by the hospital staffs. The O.P no.2 alleged that his mother died due to negligence of the petitioners who extorted money in the name of treatment.



4. Learned counsel for the petitioners submits that the petitioner no. 1 is a reputed general physician with about 48 years of practice. He has established the Abhay Institute of Medical Sciences, which has been providing health care services to patients for the last nine years and has an unblemished record. He has been elected as the President of the Indian Medical Association, Bihar, for 2024–25. He has been actively involved in charity under the Jang Rai Bahadur Trust, where he has been providing free medical help to poor people. The petitioner no. 2 is a qualified doctor with more than 12 years of practice in the field of nephrology. The petitioner no. 3 is the manager of the hospital. From a bare perusal of the complaint petition itself, it is apparent that O.P. No. 2 has deliberately suppressed the fact that he was all along aware of the condition of his mother, who was suffering from serious cardiac issues. At every stage of treatment, the O.P. No. 2 and his family members were informed about the condition of the patient. She was admitted to the ICU on 9/10/19. She



was under the treatment of the hospital until 10/13/19, when her condition deteriorated and she was referred to P.M.C.H. for further treatment. However, before she could be shifted to P.M.C.H. Patna, her condition worsened, and she was put on a ventilator. Despite the best efforts made by the doctors present at the hospital, she died due to cardiac failure. He further submits that during the course of treatment, the hospital management issued invoices for all expenses. No money was charged without an invoice. However, after the death of the patient, O.P. No. 2 and his family members began to assault the doctors. The O.P. no. 2 assaulted the petitioner no. 1, causing an injury to his eye, for which the petitioner no. 3 instituted Magadh Medical P.S. case no. 230/19 u/s 341,323,504 of the Indian Penal Code against the O.P. no. 2. He further submits that after 20 days of institution of the aforesaid F.I.R. , present false and fabricated case was instituted by O.P. No. 2, which itself creates doubt over the entire prosecution , and, as such, no offence is made against the petitioners and the



present petition is fit to be quashed.

5 . On the other hand, learned counsel for the State and opposite party No. 2 vehemently opposed the submissions made on behalf of the petitioners. While supporting the order of cognizance, learned counsel for the Opposite party No. 2 submits that the grounds raised by the petitioners are the defence of the petitioners which can only be looked at the stage of the trial and on these grounds, order of cognizance cannot be quashed.

6. Heard learned counsel for the parties and perused the materials available on the record that in the complaint, there is serious allegation against these petitioners that they along with other co-accused persons assaulted the complainant and his family members. It is also evident from the plain reading of the complaint that these petitioners indulged in assault, as a result of which, the complainant and his family members sustained injuries. Moreover, it is settled principle of law that neither a detailed inquiry nor a meticulous analysis of the material nor an assessment of the reliability or



genuineness of the allegations in the complaint warranted while examining prayer for quashing of order of cognizance. At this stage, the court could not have gone into the merits of the case or come to a conclusion. A defence plea cannot be entertained in a quashing proceeding, and, as such, I do not find any illegality or infirmity in the order of cognizance, and the petition is fit to be dismissed.

7. Accordingly, this quashing application is dismissed.

(Prabhat Kumar Singh, J)

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