

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.25193 of 2015

Arising Out of PS. Case No.-387 Year-2015 Thana- DARBHANGA COMPLAINT CASE
District- Darbhanga

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1. Arbind Prasad, S/o Ram Prakash Prasad @ Ram Prasad Rao
 2. Ram Prakash Prasad @ Ram Prasad Rao, S/o Late Moti Prasad @ Moti Raut
Both Resident of Village Bansdih, P.O. Ghosrama, P.S. Hayaghat, District
Darbhanga, State- Bihar.

... .. Petitioner/s

Versus

1. State Of Bihar
2. Hari Sahu, S/o Ganga Sahu, Resident of Village Darsur, P.O. Darsur, P.S.
Warisnagar, District Samastipur, State of Bihar at present resident at Village
Bansdih, P.O. Ghosrama, P.S. Hayaghat, District Darbhanga, State Bihar.

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. Manoj Kumar Manoj, Advocate
For the Informant	:	Mr. Grish Chandra Jha, Advocate
For the State	:	Mr. Suresh Prasad Singh, APP

CORAM: HONOURABLE MR. JUSTICE SHAILENDRA SINGH
ORAL ORDER

4 05-12-2024

I.A. No. 1 of 2024

At the outset, Mr. Manoj Kumar Manoj, learned counsel appearing for the petitioners while pressing his I.A. No. 1 of 2024 submits that the petitioner no. 2 (Ram Prakash Prasad @ Ram Prasad Rao) has died and in this regard, his death certificate has also been filed with this Interlocutory application, so, his name may be expunged from this petition.

2. Considering the above submission, let the name of the petitioner No. 2 (Ram Prakash Prasad @ Ram Prasad Rao) be expunged from this petition. Accordingly, I.A. No.1 of 2024



stands allowed.

Cr. Misc. No. 25193 of 2015

3. The instant petition has been filed with a prayer to quash the order dated 01.05.2015 passed by Judicial Magistrate 2nd Class, Darbhanga in Complaint Case No. 387 of 2015/Misc. No. 22 of 2015 whereby and whereunder the cognizance of the offences under Sections 323 and 379 of the I.P.C. has been taken against the petitioner.

4. Heard both the sides and perused the order impugned and other relevant materials. The main grounds taken by the petitioner's counsel to assail the order impugned are that admittedly, the O.P. No. 2 had taken a room in the petitioner's house to run a jewellery shop and there was some dispute in between them relating to tenancy and in this regard, complaint petition filed by the O.P. No.2 is in itself sufficient and further as per the complaint, the alleged occurrence concerned to the alleged offences took place on 15.12.2014 but the complaint was filed on 18.03.2015 by the O.P. No.2 without explaining the said inordinate delay period and there are vital and serious contradictions in between the allegations levelled in the complaint and the statements of the inquiry witnesses and in this regard, Annexure-3 series may be perused and the most



important thing is that on 15.12.2014, one Pappu Sah, son of the O.P. No.2, entered into the room of wife of the petitioner no.1 and molested her, thereafter, Hayaghat P.S. Case No. 100 of 2014 was lodged for the offence under Section 452 and 376 of the I.P.C. against the son of the O.P. No.2 and during the investigation of that P.S. Case the victim, wife of petitioner no.1, was medically examined and on her person four linear abrasions were found in front of the lower part of the neck and in this regard, her injury report, Annexure-5, is relevant and thereafter with an intention to create pressure upon the petitioner as well as to settle the dispute concerned to the tenancy, the complaint was filed by the O.P. No. 2 examining only two witnesses who are sons of the O.P. No.2 and no independent person was produced and examined and even no one relating to so-called *Panchayat* meeting was produced and examined while as per the O.P. No.2, a *Panchayat* meeting was held in between both the parties to sort out the disputes.

5. On the contrary, Mr. Grish Chandra Jha, learned counsel appearing for the O.P. No. 2 has taken the plea that during the course of inquiry all witnesses fully supported the allegations levelled by the O.P. No.2 and the contradictions pointed out by the petitioner's counsel are minor in nature and



the delay in filing the complaint has been properly explained in the complaint itself.

6. After having perused the complaint, statements of the inquiry witnesses and other Annexures, this court finds substance in the above submissions made by petitioner's counsel and it appears that the O.P. No. 2 filed his complaint to settle the tenancy dispute running in between him and the petitioner no.1 during the relevant time and further to create pressure upon the petitioner no.1 on account of a criminal case which had been lodged prior to filing of the complaint by the wife of petitioner no.1 and these facts are sufficient to persuade this court to form the opinion that the O.P. No. 2 filed his complaint with malafide intention and subjecting the petitioner no.1 to trial for the alleged offences will be abuse of the process of court, so, the order impugned taking cognizance of the alleged offences is hereby set aside and the instant petition stands allowed.

(Shailendra Singh, J)

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