

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.71178 of 2022

Arising Out of PS. Case No.-62 Year-2018 Thana- YADOPUR District- Gopalganj

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1. Mrityunjay Kumar, Son of Motilal Ram, Resident of Village- Bhathwa Ward No- 7, P.S.- Yadopur, District- Gopalganj.
 2. Jairam Kushwaha, S/o Baliram Bhagat, Resident of Village- Kala Matahiniya, P.S.- Vishambharpur, District- Gopalganj.
 3. Shilpi Kumari, D/o Late Naresh Nath Tripathi, Resident of Village- balaha ward no- 7, P.S.- Govindganj, District- Motihari.

... .. Petitioner/s

Versus

1. The State of Bihar
2. Pratima Kumari Pandey @ Pratima Devi, D/O Rameshwar Pandey, R/O Station Chowk, Harinagar, P.S.- Ravinagar, District- West Champaran (Bettiah)

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. Ranjeet Kumar Pandey, Advocate
For the State	:	Mr. Ganesh Prasad Singh, APP
For the O.P. No.2	:	Mr. Shubhesh Pandey, Advocate
		Mr. Murlidhar Mishra, Advocate

CORAM: HONOURABLE MR. JUSTICE PARTHA SARTHY
CAV JUDGMENT

Date : 12-07-2024

1. Heard learned counsel for the petitioners, learned A.P.P. for the State and learned counsel for the opposite party no.2.

2. The petitioners have filed the instant application praying for quashing the order dated 16.12.2019 passed in Yadopur P.S. Case no.62 of 2018 whereby the learned Judicial Magistrate Ist Class, Gopalganj was pleased to take cognizance for offence under sections 498A, 341, 342, 323, 504, 506 and 34



of the Indian Penal Code.

3. The prosecution case as per the written statement of the informant-opposite party no.2 given to the Officer-In-Charge, Yadopur Police Station on 2.7.2018 alleges *inter alia* that the informant was married to Dr. Bipin Bihari Pandey on 28.11.2002. Having lost the divorce case in the Court, the informant states that her husband called her on 10.4.2018, used to keep her locked up in a room and also assaulted her. She was threatened that if she did not give statement in writing, as demanded by him, her children would be killed. Contrary to the Court's order, her husband married the petitioner no.3 and was having illicit relations with her. The informant further states that the petitioner nos.1 and 2 along with her husband Dr. Bipin Bihari Pandey and petitioner no.3, on 29.6.2018 at about 12 noon locked her and her children in separate rooms and brutally assaulted her with an intention to kill. They had kept a sack with the intention that they would dispose of the dead body in it. They had also threatened to kill the informant's father and brother. As such the F.I.R.

4. The case was taken up and after investigation charge-sheet was submitted under sections 498A, 341, 342, 323, 504, 506 and 34 of the Indian Penal Code. By order dated



16.12.2019, the learned trial Court was pleased to take cognizance in the case. It is against this order that the instant application has been filed.

5. It is submitted by learned counsel for the petitioners that the petitioner nos.1 and 2 happen to be the compounders and petitioner no.3 happens to be the nurse, all of whom are working in the clinic of the husband of the opposite party no.2 who is a doctor. The petitioners are members of the staff in the clinic. They are not family members and have been malafidely implicated in this case. They have no concern whatsoever with the family affairs of the opposite party no.2 and her husband ie the doctor in whose clinic they are working in a professional capacity. There is no specific allegations against the petitioners and dispute between the parties are purely matrimonial with which the petitioners are not concerned. It is thus prayed that the order taking cognizance be quashed.

6. The application is opposed by learned counsel appearing for the opposite party no.2. It is submitted that not only the petitioners are named in the F.I.R but there is direct allegations against them which have been supported by the witnesses whose statements have been recorded in course of investigation. There is no illegality in the order impugned and



thus the application be dismissed.

7. Having heard learned counsel for the parties and having perused the material on record, this Court finds that in the instant application the petitioners have challenged the order dated 16.12.2019 taking cognizance in the case, in connection with Yadopur P.S. Case no.62 of 2018. From perusal of the contents of the F.I.R. it transpires that there is specific allegation against the three petitioners herein. While it is stated that the husband of the informant was having an illicit affair with the petitioner no.3 who happens to be his nurse, the petitioner nos.1 and 2 were working in the capacity of compounder in the clinic of the informant's husband who is a doctor. Further specific allegations have been levelled against all the three petitioners that they along with the husband of the informant locked up the informant in a room and also assaulted her. The allegations levelled in the F.I.R. have been supported by the informant in her further statement, by the minor son of the informant and also by an independent witness.

8. Thus, the Court finds that substantial material has transpired against the petitioners in course of investigation and having perused the same, the learned trial Court has rightly taken cognizance in the case by its order dated 16.12.2019,



impugned herein.

9. The Court finds no merit in the instant application
and the same is dismissed.

(Partha Sarthy, J)

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AFR/NAFR	
CAV DATE	27.06.2024
Uploading Date	13.07.2024
Transmission Date	

