

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.14774 of 2017**

Arising Out of PS. Case No.-1200 Year-2016 Thana- MUNGER COMPLAINT CASE
District- Munger

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1. Satyabarata Sen, Son of Late Narendra Nath Sen.
2. Sujit Bose, Son of Late Dilip Kumar Bose. All Resident of Mohalla Mohanpur, Keshopur, P.S. Jamalpur, District- Munger.

... .. Petitioner/s

Versus

1. State of Bihar
2. Mala Bose, Wife of Sri Subir Bose, Resident of Mohalla -Mohanpur, Keshopur, P.S. Jamalpur, District- Munger.

... .. Opposite Party/s

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Code of Criminal Procedure, 1973---section 482---Quashing--- Indian Penal Code---section 302, 307, 323, 341, 379, 385, 448, 504, 506---petition to quash order taking cognizance of offence u/s 323, 504 IPC.

Findings: there was property dispute in between the O.P. No. 2 and petitioners on account of the mutation of the ancestral property--- before the filing of the complaint of O.P. No. 2, the petitioner No. 1 had lodged an FIR alleging an incident of assault having been committed with him by the O.P. No. 2--- 12 days after registration of that FIR, the O.P. No. 2 filed her complaint and these circumstances are sufficient to show the malicious intention on her part in filing her complaint and the allegation made in the complaint appears to be absurd in nature--- subjecting the petitioners to trial for the alleged offences, of which cognizance has been taken, would be complete harassment to them and also abuse of process of court--- order impugned as well as all the proceedings having arisen against the petitioners quashed---petition allowed. (Para-6)

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Appearance :

For the Petitioner/s : Mr. Manoj Kumar Singh, Adv.
Mr. Saroj Kumar, Adv.
Mr. Rohit Kumar Singh, Adv.
Mr. Sikandar Kumar Yadav, Adv.

For the State : Mr. Jai Narain Thakur, APP

CORAM: HONOURABLE MR. JUSTICE SHAILENDRA SINGH
ORAL ORDER

10 20-03-2025 The instant petition has been filed under section 482 of the Code of Criminal Procedure (in short ‘Cr.P.C.’) with a prayer to quash the order dated 25.01.2017 passed by the court of learned Judicial Magistrate, 2nd Class, Munger in Complaint Case No. 1200(C) of 2016 by which the cognizance of the offences under sections 323 and 504 of the Indian Penal Code (in short ‘IPC’) has been taken.

2. At the outset, Mr. Manoj Kumar Singh, learned counsel appearing for the petitioners submits that after filing this petition, the petitioner No. 2 died on account of an offence



committed by the O.P. No. 2 and her husband, for which Jamalpur P.S. Case No. 90/2017 was lodged under sections 326 and 307 read with section 34 of IPC, which was later on converted under section 302 of IPC, so, in view of the said situation, the instant petition has become infructuous in respect of the petitioner No. 2, so, her name may be deleted from this petition.

3. Considering the aforesaid submission, let the name of the petitioner No. 2 be deleted from this petition.

4. In order to assail the order impugned, learned counsel appearing for the petitioner Nos. 1 and 3 submits that the instant matter is based on complaint filed by the O.P. No. 2 and the petitioners and O.P. No. 2 are close relatives. Petitioner Nos. 1 & 3 are uncle and brother of the husband of the O.P. No. 2 respectively while the petitioner No. 2 (now deceased) was sister of the husband of the O.P. No. 2 and there was some property dispute in between them relating to the house and lands at the relevant time of commission of the alleged occurrence which is an admitted position and in this regard, complaint filed by the O.P. No. 2 may be perused. In respect of the ancestral property left by the father of the husband of O.P. No. 2, the husband of the O.P. No. 2 relinquished his right by executing a relinquish deed and thereafter, other legal heirs of the father of the husband of the



O.P. No. 2, including the petitioner No. 3, filed a petition before the Circle Officer, Jamalpur for mutation of the immovable property left by the common ancestor of both the parties and in this regard, Annexure-3 is relevant and the same may be perused and on that basis, the land as well as other immovable property was mutated and rent receipt was started being issued and that mutation got finality and the same is not challenged till date, but the O.P. No. 2 was not satisfied with that settlement as well as the mutation, hence, she fabricated a false story, while on 30.11.2016, an incident of *marpit* was committed with the petitioner No. 1 by the O.P. No. 2 and her husband, for which Jamalpur P.S. Case No. 166/2016 was registered by the petitioner No. 1 for the offences under sections 448, 323, 341, 379, 385, 504 and 506 read with section 34 of IPC and in that incident the petitioner No. 1 sustained injuries and in this regard, the FIR of that case is relevant, of which copy has been filed as Annexure-2 with this petition and in retaliation of that FIR as well as owing to mutation dispute, the O.P. No. 2 filed her complaint on 16.12.2016, about 12 days after the registration of the FIR of the petitioner No. 1 and the same is sufficient to show the malicious intention on part of the O.P. No. 2 in filing her complaint. It is further submitted that the O.P. No. 2 is a cruel lady and after filing her complaint, she and her husband brutally murdered



Sangita Bose, who was initially petitioner No. 2, in this matter, by setting her on fire, for which Jamalpur P.S. Case No. 90/2017 was registered for the offences under sections 326 and 307 read with section 34 of IPC and the same was later on converted under section 302 of IPC, for which the O.P. No. 2 and her husband were convicted and they were recently released on bail, during the pendency of their appeal, by this Court. It is further submitted that the O.P. No. 2 did not appear before this Court despite having received the notice sent to her through registered post and in this regard, office report may be perused.

5. On the other hand, learned APP appearing for the State has opposed the petition and submitted that as per the order impugned, the complainant as well as her all witnesses, who were two in number, fully supported the case of the complainant and learned Magistrate has taken cognizance of the alleged offences rightfully and there is no merit in this case.

6. Heard both the sides and perused the order impugned and other relevant materials. Admittedly, there was property dispute in between the O.P. No. 2 and petitioners on account of the mutation of the ancestral property and before the filing of the complaint of O.P. No. 2, the petitioner No. 1 had lodged Jamalpur P.S. Case No. 166/2016 alleging an incident of assault having been committed with him by the O.P. No. 2 and



her husband, in which as per petitioners’ counsel, the O.P. No. 2 and her husband were chargesheeted and 12 days after registration of that FIR, the O.P. No. 2 filed her complaint and these circumstances are sufficient to show the malicious intention on her part in filing her complaint and the allegation made in the complaint appears to be absurd in nature, so, considering this aspect as well as in view of aforesaid grounds taken by the petitioners’ counsel, this Court is of the view that subjecting the petitioner Nos. 1 and 3 to trial for the alleged offences, of which cognizance has been taken, would be complete harassment to them and also abuse of process of court, so, the order impugned as well as all the proceedings having arisen against the petitioners in the light of the cognizance order in connection with Complaint Case No. 1200(C) of 2016 are hereby quashed and the instant petition stands allowed.

(Shailendra Singh, J)

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