

(2023) 03 JH CK 0011

In the Jharkhand High Court

Case No : Criminal Miscellaneous Petition No. 1344 Of 2011

Miraj Danish @ Md. Miraj Danish And Others

APPELLANT

Vs

State Of Jharkhand And Others

RESPONDENT

Date of Decision : 15-03-2023

Acts Referred:

Indian Penal Code, 1860 — Section 34, 323, 341

Citation : (2023) 03 JH CK 0011

Hon'ble Judges : Sanjay Kumar Dwivedi, J

Bench : Single Bench

Advocate : Purnendu Sharan, Nehala Sharmin

Final Decision : Dismissed

Judgement

Sanjay Kumar Dwivedi, J

1. Heard Mr. Purnendu Sharan, learned counsel for the petitioners and Ms. Nehala Sharmin, learned counsel for the State.

2. This petition has been filed for quashing the order dated 09.05.2011 passed by the learned Judicial Magistrate, 1st Class, Dumka whereby cognizance has been taken against the petitioners under Sections 323, 341/34 of the Indian Penal Code. The prayer is also made to quashing the entire criminal proceeding in connection with P.C.R. Case No.02/2009, corresponding to T.R. No.1013/2011, pending in the court of the learned Judicial Magistrate, 1st Class, Dumka.

3. On the written complaint of the complainant, the complaint case was registered wherein it was alleged that on 20.12.2009 at about 06:00 p.m., all accused persons entered into the house of the complainant and forced Farina Danish who is daughter of petitioner no.4 to give Talak to Md. Tabrej Alam on the stake of Pistol and forcibly took her along with them. They also threatened to destroy the family and took Rs.4,200/- and destroyed some valuable documents. It was further alleged that the complainant who is an artist, was called to attend a programme in Nehru Yuva Kendra Sanstha where he met Farina Danish who

was also working there and after sometime, accused no.4 Farjana Danish proposed Md. Tabrej to marry with Farina Danish, however he asked accused no.4 to talk to his family in this regard. On 01.11.2008, Md. Tabrej and Farina Danish solemnized their marriage according to muslim customs and the same was also registered on 24.02.2009 and thereafter they started living as husband-wife. However, after their marriage, the accused persons started making efforts to separate them and, therefore, on 20.12.2009, they entered into the house of the complainant and forced Farina Danish to divorce Md. Tabrej. On the basis of the said complaint, Complaint Case No.2/2009, corresponding to T.R. No.758/2010 was registered.

4. Learned counsel for the petitioners submits that the entire prosecution story is false as the complainant along with his son abducted Farina Danish on 30.11.2008 and the said incident was reported to the Officer-in-charge, Kishanganj Police Station on 27.06.2009 and accordingly FIR was registered being P.S. Case No.188/09. He further submits that in the said case, the police in connivance of the accused submitted final report against which petitioner no.4 filed a protest complaint being C-158/10. He also submits that there are only bald allegations against the petitioners and taking away sum of Rs.4,200/- against the petitioners is not correct. He further submits that the order taking cognizance is also not in accordance with law. On these grounds, he submits that entire criminal proceeding may kindly be quashed.

5. On the other hand, learned counsel for the State submits that the learned court has taken cognizance looking into the solemn affirmation as well as the enquiry witnesses and thereafter cognizance has been taken.

There is no illegality in the impugned order.

6. The Court has gone through the materials on the record and finds that there are direct allegations against the petitioners of forcefully entering into the house and taking away sum of Rs.4,200/-. The order taking cognizance is a well reasoned order. Hence, no case of interference is made out.

7. Accordingly, this petition is dismissed.

8. Consequently, I.A. No.618 of 2013 is also dismissed.

9. Interim order, if any granted by this Court, stands vacated.