

IN THE HIGH COURT OF JUDICATURE AT PATNA
Cr.Misc. No.25237 of 2009
RAJIV KUMAR
Versus
STATE OF BIHAR
with
Cr.Misc. No.29997 of 2009
AMIT KUMAR SONI
Versus
STATE OF BIHAR

2 31.8.2009 Heard learned counsel for the petitioners of both applications and learned counsel for the informant as well as learned APP for the State.

Both the petitioners have been charged in Begusarai Town P.S. case No. 138 of 2009 registered under sections 420, 406, 341, 323, 504/34 of the Indian Penal Code.

As per the allegation made by the informant, she sold a shop belonging to her husband on 25.3.2009, for a sum of Rs. 16, 00,000/-. This was a distress sale with the object of generating money for treatment of her husband who was suffering from cancer. Coming to know of the said sale, the two petitioners who are own brothers of her husband, are alleged to have persuaded her to hand over the money to them for being deposited in the name of her son. The money was handed over to them. But thereafter no deposit was made or any receipt of money in the name of her son was given to her. When the matter was pursued the informant was driven out of the house with her child after assaulting and abusing her. It has also come that the husband of the informant died in the meanwhile in absence of proper treatment due to lack of money.

Learned senior counsel for the petitioners informs the Court that it is unbelievable that such a huge amount has given to petitioners for depositing the same in the bank in the name of informant's son when there was case between the parties. It is also unbelievable that a piece and parcel of the land at Begusarai will cost Rs. 16, 00,000/- and therefore the present case has been lodged for extraneous reason.

Learned counsel for the informant submits that it is evident from the record of the case that these two petitioners digested money and now they are using a kind of threat to the informant even when they are in jail. In this regard informatory petition has also been given to the court of Chief Judicial Magistrate. In addition, the factum of handing over the money stands corroborated by own father of the two petitioners. He has categorically stated about the same and therefore it is a case of two dishonest sons who have taken advantage of the distress condition under which the informant was going through at the point of time. Perusal of the impugned order would show that even the case diary was not up-to-date as the case is not being investigated by the I.O. properly. There is lack of cooperation by the I.O. as has been indicated in the order of the court below.

With the kind of allegation with corroborating materials coupled with threat and pressure being put on the informant when these two petitioners are in judicial custody and investigation is not yet complete, enlarging them on bail will

jeopardize the case and cause serious prejudice.

In the circumstances the prayer for bail of the petitioner are rejected.

Let a copy of the order be forwarded to the Superintendent of Police, Begusarai for close scrutiny on the investigation of the case as also the conduct of the Investigating Officer.

RPS

(Ajay Kumar Tripathi,J.)

