

IN THE COURT OF MUNSIF CUM J.M FIRST CLASS BENIPATTI

CR- 741/ 2013

T.R 1925/2019

Date: 10-12-2019

Complainant is in attendance. Accused Ram Balak Thakur is in attendance and rest 03 accused are represented u/s 317 crpc which is allowed for today only .

Case record has been put up before me for order on petition dated 3-01-2019, filed on behalf of defence and rejoinder dated 6-03-02019 on behalf of complainant .

Learned counsel Mr. N. K. Choudhary on behalf of defence humbly submitted that case record is pending for defence evidence .Two (2) documents related to medical treatment of Pushpanjali Devi have been filed by defence which have not been marked exhibit and taken in evidence . So, in the interest of justice and for just decision of the case , it is necessary to issue a dasti summons in the name of Dr . Baleshwar Pandey who is ready to depose in the court .Therefore, prayed to allow petition dated 03-01-2019 .

On the other hand learned counsel Mr. Vinay Kumar Deo on behalf of complainant opposed the prayer of defence and contended that petition dated 03-01 2019 filed by defence is not maintainable, it has been filed with intent to harass complainant . Dr. Baleshwar Pandey is closely related to accused persons and he had prepared a false medical prescription and report which has been filed by defence before the court . No such documents fall under pervue of public documents. Documents are not authentic and genuine . Therefore, it should not be taken in evidence. Prayer of defence to issue dasti summons against witness in complaint matters itself is not maintainable , it is the duty of the party to adduce witness in the court in support of his/ her case. Accused persons have prayed to issue dasti summons with a view to put stress on concerned medical practitioner to appear in court . Therefore, prayed to dismiss petition dated 03-01-2019.

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Heard both sides, perused the entire case record. On perusal of case record it appears that case is pending for defence evidence. On 21-02 -2014 on considering S.A of complainant , inquiry evidences and complaint cognizance had been taken for the offence punishable u/s 498A and 324/34 ipc against accused persons named Rajesh Thakur, Chanchal Devi, Ram Balak Thakur and Chandni Devi. In the course of trial four (4) witnesses have been examined by complainant in support of her case .Defence has also examined two (2) witnesses in its defence. Defence has filed a medical prescription related to treatment of Pushpanjali Devi and also filed EEG and brain map analysis report with petition dated 03-01-2019. It is pertinent to mention here that case record is still pending for defence evidence and defence is independent to adduce evidence of its own choice . If defence perceive that examination of medical practitioner concerned is required, they are independent to bring such medical practitioner before court for his examination . It is responsibility of the defence to adduce evidence if they wish to do so. Court consider that it is not appropriate to issue dasti summon to any witness in such a case which has been arisen on the basis of complaint. However defence has adequate opportunity to adduce evidence of its choice and any witness which they feel significant, they can produce them before court . So, an opportunity to produce them as witness before court if provided. Accordingly petition dated 03-02019 is hereby disposed of with a direction for defence side to adduce all its evidence with in three (3) consecutive dates.

Put up the case record for defence evidence on

dictated

Munsif Cum J.M., Benipatti.