

IN THE COURT OF ADDITIONAL CHIEF JUDICIAL MAGISTRATE.
RAMPURHAT, BIRBHUM

PRESENT : Sri Souvik De, A.C.J.M, Rampurhat, Birbhum

CR 131 of 2023

CNR No.WBBB06-000630-2023

Registration No.139/2023

Najema Bewa Vs. Khairul Dewan & 08 Ors.

Order no.01 Date : 06/03/2023

One Najema Bewa has filed an application u/s. 156(3) of Cr.P.C praying for treating the same as FIR and sending it to Murarai P.S for starting a specific case against the accused persons. Along with the application, P.Rs reflecting sending of the complaint to S.P, Birbhum, S.D.P.O, Rampurhat and O.C, Murarai P.S. prior to the filing of this application u/s. 156(3) of Cr.P.C, have been filed. Copies of some medical bills and train tickets have been filed.

Hon'ble Apex Court in **Lalita Kumari vs Govt. Of U.P. & Ors. on 12 November, 2013** has observed that prior to registering of a specific P.S case preliminary inquiry is required to be done/conducted if the commission of cognizable offence is doubtful. In **Priyanka Srivastava & Anr. Vs. State of U.P & Ors. on 19th March, 2015** Hon'ble Apex Court banking on **Lalita Kumari (Supra)** has further observed that power u/s. 156(3) of Cr.P.C warrants application of judicial mind. It has also been observed that the Magistrate should verify the truth and veracity of the allegation in appropriate cases. Hon'ble High Court at Calcutta in **Pranati Das Vs. State of West Bengal reported in 2020 SCC OnLine Cal 132** has observed that while dealing with an application u/s. 156(3) of Cr.P.C **Priyanka Srivastava (Supra)** has to be followed. It has also been observed by the Hon'ble Court that if the Magistrate refuses to entertain the prayer of the complainant to treat the petition of complaint as FIR, then it is open to the Magistrate to take cognizance of the allegations u/s 190(1)(a) of Cr.P.C. Honourable Court has also observed that after taking cognizance of the allegations u/s 190(1)(a) of Cr.P.C, a Magistrate is to proceed under section 200 of Cr.P.C. and if necessary can take recourse to section 202 of Cr.P.C, prior to issuance of process. On examining the complainant, on perusal of the complaint, on verifying the veracity and truthfulness of the allegation, so made and on application of judicial mind, I am not inclined to entertain the prayer of the complainant to treat the petition of complaint as FIR. I think it apt and proper to take cognizance of the allegations u/s 190(1)(a) of Cr.P.C.

On perusal and consideration of all, offences u/s. 147/ 148/ 323/ 325/ 354/ 506/ 427/ 149 of I.P.C are prima facie made out.

Let the case be registered as complaint case. Cognizance is taken.

The case record be transferred to the Ld. Judicial Magistrate, 2nd Court, Rampurhat, Birbhum for trial and disposal.

D/c

A.C.J.M, Rampurhat,
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