

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.22329 of 2012

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Shatrughan Singh @ Shatrudhan Singh son of Late Kaleshwar Singh, R/O Village-
Karnal Chandi, PS Charpokhari Distt- Bhojpur.

.... Petitioner/s

Versus

1. The State of Bihar
2. Smt. Bindi Devi wife of Sanjay Singh D/O Shri Haribansh Singh, presently
residing in village-Berath, PS.Chauri, Distt-Bhojpur Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Raghunanda Kumar Singh, Adv.

For the Opposite Party/s : Mr. Jharkhandi Puadhyaya, APP.

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CORAM: HONOURABLE MR. JUSTICE ADITYA KUMAR TRIVEDI

ORAL JUDGMENT

Date: 11-02-2015

Heard learned counsel for the petitioner as well as
learned APP for the State. In spite of appearance of OP NO.2, none
has represented her.

2. Petitioner, who happens to be father-in-law along
with others including husband has been summoned to face trial for an
offence punishable under Sections 498A, 406, 342 of the IPC vide
order dated 06.04.2011 passed by SDJM, Bhojpur at Ara in Complaint
Case No. 2100/2010, Trial No. 3004/2010 on a complaint filed by OP
NO.2, Bindi Devi who happens to be wife of Sanjay Singh, son of
petitioner whereunder, she had alleged that after marriage in the year
1999, she came to her Sasural where accused persons advanced
demand of Rs.2,50,000/- in lieu of dowry and to facilitate the same,
she was also tortured.

3. It has further been alleged that in the year 2008, father



of complainant had paid Rs. 1 Lakh to her husband, Sanjay Singh who had purchased one Commander Jeep in partnership with his friend. Subsequently thereof, they revived demand of dowry and having been denied at her side, on 18.09.2010, the accused persons brutally assaulted her on account of which there happens to be fracture in her left hand as well as also sustained injury over different parts of her body. The accused persons remained immune with her condition and lastly, on 27.09.2010, she was kicked out after retaining her ornaments, clothes etc.

4. It has been submitted on behalf of petitioner that from the narration of the complain petition itself, it is apparent that it was the husband who had indulged in such kind of activity, otherwise, there was no occasion for the father of the complainant/OP NO-2 to pay Rs. 1 Lakh to the husband of O.P. NO.2/complainant. It has further been submitted that from the complaint petition, it is also apparent that marriage took place in the year 1999 and the case has been filed after eleven years of date of marriage and during intervening period, as expected, the petitioner has gone old and now became victim of circumstances. It has further been submitted that in omnibus way the allegation has been attributed to the petitioner even during course of S.A. as well as statement of the witnesses, is indicative of the fact that being father of the husband of the

complainant, he has been implicated in this case to satisfy the personal grudge and vendetta. So submitted that the order of cognizance should be set aside.

5. On the other hand, learned APP opposed the prayer and submitted that at the present stage, presence of *prima facie* case suggests validity of the order of cognizance.

6. After going through the order impugned as well as complaint petition along with other materials, it is apparent that no specific allegation has been attributed to the petitioner.

7. The Hon'ble Apex Court in the case of ***Geeta Mehrotra & Anr v. State U.P.*** reported in ***2013 AIR SC 181*** has held that usually the family members are being implicated in a case under Section 498A IPC along with other allied Sections by way of retaliation and unless and until, there happens to be specific allegation, the prosecution should not be allowed to proceed.

8. Accordingly, the order dated 06.04.2011 passed by the learned lower court to the extent of petitioner is quashed. Petition is allowed.

(Aditya Kumar Trivedi, J)

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