

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.2454 of 2013

Arising Out of PS.Case No. -145 Year- 2012 Thana -RAMPUR District- GAYA

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1. Chandan Kumar, S/O Umesh Yadav.
 2. Kundan Kumar, S/O Umesh Yadav.
 3. Kiran Devi, W/O Umesh Yadav.
 4. Umesh Yadav S/O Late Sadhu Ram.
- All are residents of Mohalla-Shastri Nagar, Road No.1 (Laxmi Nagar),
P.S.-Rampur, District- Gaya.
5. Chinta Devi, D/O Umesh Yadav W/O Baiju Yadav, Resident of Village-
Gopi Bigha, P.S. Medical, District Gaya.
 6. Baiju Yadav, S/O Chattu Yadav, Resident of Village- Gopi Bigha, P.S.
Medical, District Gaya.

.... Petitioners

Versus

1. The State Of Bihar.
2. Aarti Devi, W/O Chandan Kumar, D/O Bansi Yadav, Resident of
Mohalla- Shastri Nagar, Road No. 1 (Laxmi Nagar), P.S. Rampur, District
Gaya, Presently residing in Village Ramdhanpur Pipar Gali, P.S. Kotwali,
District Gaya.

.... Opposite Parties

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Appearance :

For the Petitioner/s : Mr. Satyendra Prasad Singh, Advocate
For the Opposite Party/s : Mr. C.Sen Pd. Singh (App)

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CORAM: HONOURABLE MR. JUSTICE AMARESH KUMAR LAL
ORAL ORDER

4 16-07-2015 Heard the learned counsel for the petitioners and the

State. No one appears on behalf of opposite party no.2 even after

service of notice.

This application has been filed for quashing the order
dated 16.11.2012 passed by the learned Chief Judicial Magistrate,
Gaya in Rampur P.S. Case No.145 of 2012 (Trial No.2621/12) by
which cognizance has been taken against the petitioners for the
offences punishable under Sections 498A, 307/34 of the Indian

Penal Code and Sections 34 of Dowry Prohibition Act.

The prosecution case, in brief, is that the informant was married about 12 years ago with Chandan Kumar (petitioner no.1) and since then, she was being tortured for non-fulfillment of demand of dowry for which, she filed a case in Gaya court and on the order of the learned court below, she along with her son was brought to her Sasural where demand of Rs.2 lacs was made. On 9.08.2012 at about 10.30 P.M. while the informant-opposite party no.2 was sleeping with her son Shivam, her husband (petitioner no.1) asked to open the door of the room. Thereafter, she opened the door. He asked as to why she has not brought money from her parents. When she showed inability of her parents to pay the amount of dowry, he brought kerosene oil and poured on the person of the informant and tried to set fire. In the meantime, she cried. The other inmates of the house (petitioners) assaulted her brutally and ultimately ousted her from marital house.

On the statement of opposite party no.2, Rampur P.S. Case No.145/2012 was instituted for the offence punishable under Sections 498A, 307/34 of the Indian Penal Code and Section 34 of Dowry Prohibition Act. After investigation, the allegations were found true and as such, the Investigating Officer submitted charge sheet against the petitioners.

A petition was filed on behalf of the accused praying therein not to take cognizance under Section 307 of the Indian Penal Code. After hearing, the learned Magistrate has found sufficient materials against the petitioners for the offence punishable under Sections 498A, 307/34 of the Indian Penal Code and Sections 3 of Dowry Prohibition Act and accordingly, cognizance has been taken against the petitioners under those sections.

The learned counsel for the petitioners submits that the informant-opposite party no.2 is in habit of filing false case against her husband and others. The petitioner nos. 5 and 6 are sister and brother-in-law of husband of the opposite party no.2. They are residents of another village and they are not living with other petitioners. He further submits that there is no injury report.

The learned counsel for the State submits that there is specific allegation of overt act against the petitioners. The seizure list shows that there is smell of kerosene oil on sari and blouse. After investigation, the police has found the case true and accordingly, the learned Magistrate has taken cognizance against the petitioners.

After hearing the learned counsel for both the parties and on perusal of the material on record, it appears that the

contention of the learned counsel for the State is correct. It appears from the impugned order that the learned Magistrate has considered the material on record and has found prima facie case and accordingly, cognizance has been taken against the petitioner.

Considering the facts and circumstances of the case, I do not find any ground to interfere with the impugned order.

In the result, this application is dismissed.

(Amaresh Kumar Lal, J)

V.K. Pandey/-

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