

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.10210 of 2013

Arising Out of PS.Case No. -28 Year- 2011 Thana -COMPLAINT CASE District- -

1. Vijay Kumar Yadav S/O Late Gajendra Yadav R/O Village-
Fullaut, P.S.-Chausa, Distt.-Madhapura

2. Saromani Devi @ Anpurna Devi W/O Late Gajendra R/O Village-
Fullaut, P.S.-Chausa, Distt.-Madhapura

.... Petitioner/s

Versus

1. State Of Bihar

2. Asha Devi W/O Vijay Kumar Yadav R/O Village-Fulaut, P.S.-Chausa,
Distt.-Madhepura

.... Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Dinesh Pd. Verma

For the Opposite Party No.1: Mr. Uma Nath Mishra,APP

For the Opposite Party No.2: Mr. Brij Nandan Prasad

CORAM: HONOURABLE MR. JUSTICE BIRENDRA PRASAD VERMA
ORAL ORDER

3 21-05-2015 Heard learned counsel appearing on behalf of the petitioners, learned Additional Public Prosecutor appearing on behalf of the State as also learned counsel appearing on behalf of the opposite party no.2.

The petitioners, who are husband and the mother-in-law respectively of the complainant- opposite party no.2, have filed the present application under Section 482 Cr. P.C. for quashing the order dated 01.12,2011 passed by the learned S.D.J.M., Banka in Complaint Case No. C-28/2011/ Trial No. 3549 of 2011, whereby cognizance has been taken for offences under Section 498A of the Indian Penal Code and Section 4 of the Dowry Prohibition Act, and summons have been issued to the accused persons including the petitioners for facing trial.

Learned counsel appearing on behalf of the petitioners submits that the allegations in the complaint petition vide Annexure-1, are general and omnibus in nature against all the

accused persons regarding demand of dowry and torture to the complainant- opposite party no.2 and, therefore, the impugned order taking cognizance is liable to be quashed by this Court.

The matter has been contested by the learned Additional Public Prosecutor appearing on behalf of the State as also learned counsel appearing on behalf of the opposite party no.2. According to them, both the petitioners are specifically named in the complaint petition vide Annexure-1 and there are specific allegations of demand of dowry of Rs. One lakh in cash and a motorcycle against them, and further on account of non-fulfillment of aforesaid demand, the complainant was tortured and she was finally driven out from the house of her in-laws. Learned counsel appearing on behalf of the opposite party no.2 has further submitted that during the course of enquiry under section 202 Cr. P.C., four witnesses were examined and they all have supported the prosecution version.

After having heard the parties, this Court is of the opinion that for the purposes of taking cognizance only prima facie case is required to be found out by the learned Magistrate. The defence of the accused person cannot be looked into at this stage. From the plain reading of the complaint petition vide Annexure-1, it is apparent that there is specific allegation of demand of dowry and torture against these two petitioners, besides others. Admittedly, four witnesses were examined during the course of enquiry and they all have supported the prosecution version. In that view of the matter, learned Magistrate was fully justified in taking cognizance of offence and issuing summons to the accused persons for facing trial.

In above view of the matter, this Court does not find any

good ground to interfere with the impugned order. The present application at this stage is completely misconceived and is, accordingly, dismissed.

The interim order of stay passed on 22.04.2014 by a Bench of this Court stands vacated.

(Birendra Prasad Verma, J)

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