

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.1709 of 2015

Arising Out of PS.Case No. -218 Year- 2011 Thana -GARDANIBAGH District- PATNA

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1. Ram Sumari Devi Wife of Ram Bilash Singh
2. Meera Devi alias Meera Kumari Wife of Anil Singh
3. Nibha Kumari D/o Ram Bilash Singh
4. Shiv Kumar alias Raj Singh Son of Ram Bilash Singh All resident of Mohalla Habibpura, P.S. - Sohsarai, District - Nalanda.

.... Petitioner/s

Versus

1. The State of Bihar.
2. Urmila Kumari Wife of Shiv Kumar alias Raj Singh, Daughter of Gangeshwar Sharma, Resident of Mohalla - C-6 Police Colony, Anishabad, P.S. - Gardanibagh, District - Patna.

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Khurshid Alam,Adv.
For the State : Dr.Mayanand Jha, APP
For Opposite Party No.2 : Mr. Akhileshwar Prasad Singh, Sr. Adv.
Mr. Anant Kumar, Adv.

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CORAM: HONOURABLE MR. JUSTICE ASHWANI KUMAR SINGH
CAV JUDGMENT

Date: 23-09-2015

By way of the present application filed under Section 482 of the Code of Criminal Procedure (for short 'Cr.P.C.'), the petitioners seek quashing of the order dated 29.12.2013 passed by the learned Judicial Magistrate 1st Class, Patna in Gardanibagh P.S.Case No. 218 of 2011 whereby cognizance of the offences punishable under Sections 323, 341, 504 and 498-A/34 of the Indian Penal Code has been taken against the petitioners.

2. The First Information Report of Gardanibagh P.S.Case No. 218 of 2011 dated 13.11.2011 was registered on the basis of a



written report submitted by the Opposite Party No.2 Urmila Kumari to the Officer-in-Charge of Gardanibagh Police Station. It has been stated in the written report that earlier she had instituted Gardanibagh P.S.Case No. 43 of 2009 regarding cruelty committed upon her by the accused persons. On the basis of an order passed on 06.04.2010 by the learned Sessions Judge, Patna, she started living in her matrimonial home. Initially the accused persons kept her well for about a month but thereafter they started torturing her in various ways. She has stated that on 25.10.2010 the accused persons in conspiracy with each other caused her to miscarry. They did not allow her to talk to her parents on phone. She has further stated that the accused persons demanded Rs.3,00,000/- from her which was spent on contesting the case in the court. As she failed to fulfill their promise, they coerced her in various ways. She has further stated that on 11.08.2011 she was brutally assaulted by her husband, mother-in-law and sister-in-law, namely, Bibha Devi. They dispossessed her of her ornaments and clothes and locked her in a room. Thereafter, while going to the court, they threatened that she would be killed after they come back from the court. She was kept in confinement under the watch of her sister-in-law Bibha Devi. She has stated that at about twelve O'clock in the day time she made a request to Bibha Devi that she wanted to attend the call of nature. After repeated request made

by her, her sister-in-law Bibha Devi opened the door which was locked from outside and thereafter somehow she could manage to escape from her matrimonial house. She caught a bus and came to Patna and informed her father about the whole incident. She has further stated that at about 8.00 p.m. her husband Shiv Kumar came to her parents house and started to assault her in their presence.

3. On the basis of the aforesaid allegation made in the written report a case was registered under sections 323, 341 and 498-A of the Indian Penal Code against the petitioners and investigation was taken up. On completion of the investigation, the Police submitted charge-sheet pursuant to which cognizance of the offence was taken by the learned Magistrate vide impugned order dated 29.12.2013.

4. It is contended by the learned counsel for the petitioners that the present FIR has been instituted with oblique motive at the behest of the father of the Opposite Party No.2, who is a retired Deputy Superintendent of Police and her brother, who is an advocate. He has contended that prior to the institution of the present case, Opposite Party No.2 had filed Gardanibagh P.S.Case No. 43 of 2009, which was registered under section 498-A of the Indian Penal Code in which trial is going on. In the earlier case matter was referred to the District Mediation Centre by the court below for reconciliation but

reconciliation failed since the Opposite Party No.2 refused to live with the Petitioner No.4.

5. On the other hand, learned counsel for the Opposite Party No.2 has submitted that in Gardanibagh P.S.Case No. 43 of 2009 the husband of the Opposite Party No.2 Shiv Kumar @ Raj Singh (Petitioner No.4) had filed an application for anticipatory bail vide A.B.P. No.7627 of 2009 before the learned Sessions Judge, Patna. On notice, the Opposite Party No.2 appeared on 06.04.2010 and fairly conceded that she is ready to go with her husband. The learned Sessions Judge, Patna, taking into consideration the submissions made by the parties and the undertaking given by the husband that he would keep the Opposite Party No.2 with all dignity and care in the matrimonial home, granted provisional anticipatory bail to the Petitioner No.4. He submits that the Opposite Party No.2 went along with her husband on 06.04.2010 at matrimonial home at Biharsharif and both appeared in the court of the learned Sessions Judge again on 23rd April, 2010 and after being satisfied that the Opposite Party No.2 was being kept well in her matrimonial home, the learned Sessions Judge, Patna confirmed the provisional anticipatory bail granted to the Petitioner No.4 and again the informant-Opposite Party No.2 went back together with her husband directly from the court. He submits that initially the Opposite Party

No.2 was kept well but latter the accused persons repeatedly subjected her to physical and mental torture as a result of which her five months old pregnancy got terminated.

6. I have heard the respective counsel for the parties and perused the materials available on record.

7. The allegations made in the FIR are quite serious. During investigation the witnesses have supported the allegations made in the FIR. Finding the allegations made against the petitioners to be true, on completion of investigation, the Investigating Officer submitted charge-sheet against the petitioners pursuant to which the learned Magistrate found a prima facie case made out against them and summoned them to face trial vide impugned order dated 29.12.2013.

8. Regard being had to the facts and circumstances of the case, I do not find any error in the order passed by the learned Magistrate. The application, being devoid of any merit, is dismissed.

(Ashwani Kumar Singh, J)

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