

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.49418 of 2012

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1. Kanchan Devi @ Kanchan Kumari D/O Parmanand Saw and W/O Vinod Kumar Sahu, resident of Village Dhaiya, P.S- Dhanbad, District- Dhanbad
 2. Priti Devi !@ Priti Kumari D/O Parmanand Saw and W/O Babloo Kumar Resident Of Village Kurji Balupar, P.S- Digha, District- Patna.
 3. Sabo Devi @ Sawitri Kumari D/O Parmanand Saw and W/O Rabi Shankar Resident Of Village Gopalpur, P.S.Rajaun, District Banka
 4. Anu Devi @ Anuradha Kumari daughter of Parmanand Saw and wife of Pawan Kumar, resident of Mekara, P.S.Mokama, District Patna
 5. Anand Saw @ Anand Prasad son of Parmanand Saw
 6. Jeera Devi @ Geeta Devi wife of Parmanand Saw
 7. Parmanand Saw @ Parmanand Prasad son of Brahmadeo Saw
 8. Vikash Saw @ Vikash Kumar son of Parmanand Saw @ Parmanand Prasad

Petitioner nos. 4 to 8 are resident of village Sarhan, P.S.Pandararak, District Patna at present resident of Kastar Town Amardham Lane, Deohar, P.S.Deoghar, District Deoghar (Jharkhand)

.... Petitioner/s

Versus

1. The State of Bihar
2. Suman Devi daughter of Shivnandan Saw, resident of village Saichak (Bechali Malahi) P.S.Barh, District Patna

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Chandrasen Prasad Singh, Advocate
For the State : Mr. Jharkhandi Upadhyay(App)
For the Opp.Party no.2 : Mr.Ashok Kumar Kashyap, Advocate

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CORAM: HONOURABLE MR. JUSTICE BIRENDRA PRASAD VERMA
ORAL ORDER

4 25-06-2015

Heard the parties.

2. The petitioners have filed the present application under Section 482 of the Code of Criminal Procedure, 1973 for quashing the order dated 30.10.2012 passed in Complaint Case No. 270C of 2012 by the learned Sub Divisional Judicial Magistrate, Barh whereby cognizance has been taken for the offences under Section 498A of the Indian Penal Code and 3/4 of the Dowry Prohibition Act and summons have been issued to the accused persons.

3. Learned counsel appearing on behalf of the petitioners submits that in whole complaint petition (Annexure-1), the complainant has not disclosed the name of her husband though she claims to have been married on 02.12.2009 and the accused persons are alleged to have demanded dowry and on account of non-fulfillment of aforesaid demand, she was allegedly subjected to torture. According to the learned counsel, non-disclosure of name of the husband creates grave doubt about bona fide of the criminal prosecution, though eight persons have been arrayed in the category of the accused persons.

4. Learned Addl.P.P. appearing on behalf of the State has opposed the prayer and has supported the impugned order.

5. Indisputably, in the complaint petition vide Annexure-1, all the petitioners are named as accused and they are alleged to have demanded dowry and subjected the complainant to torture. It is true that in the aforesaid complaint petition (Annexure-1), the complainant has not specifically stated the name of accused with whom she was married though she claims that the marriage was solemnized on 02.12.2009 and her husband is also in the category of accused. In the present petition, the statements of the witnesses recorded under Section 202 Cr.P.C. have not been brought on the record.

6. This Court is afraid that the FIR or the Complaint petition is not supposed to be an encyclopedia. The FIR is lodged or the complaint petition is filed in the court only with a view to put the criminal prosecution in motion. Once an FIR is lodged, the matter is investigated by the police whereas once a complaint petition is filed, an enquiry is conducted under Section 202 Cr.P.C. and only thereafter cognizance is taken. In absence of

deposition of the witnesses recorded under Section 202 Cr.P.C., submissions made on behalf of the petitioners cannot be countenanced and on this ground alone the order taking cognizance and the whole criminal prosecution cannot be quashed.

7. In above view of the matter, this Court is not inclined to interfere with the impugned order taking cognizance. However, the petitioners shall be at liberty to raise all issues which have been raised in this application, besides the other issues which may be available to them, at an appropriate stage before the learned trial court.

8. The present application stands finally disposed of with the observations and directions made above. The interim order of stay passed on 27.11.2014 by a Bench of this Court stands vacated.

(Birendra Prasad Verma, J)

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