

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.12206 of 2013

Arising Out of PS.Case No. -358 Year- 2011 Thana -SAHARSA COMPLAINT CASE District- -

- =====
1. Ganesh Gupta @ Ganesh Prasad Gupta
 2. Gopal Prasad Gupta
Both sons of Late Bishwanath Prasad Gupta
 3. Soni Kumari
 4. Moni Kumari @ Anamika Kumari (Moni)
Both daughter of Late Bishwanath Prasad Gupta
 5. Suman Devi @ Suman Devi Gupta wife of Late Bishwanath Prasad Gupta.
All Residents Of Village- Bangali Tola, P.S.- Samastipur, District-Samastipur

.... Petitioner/s

Versus

1. The State Of Bihar
2. Kumari Nitu, D/o Lal Prasad Gupta, R/o Rajshree Vastralay, Super Market Road, Thana Chowk, P.S. Saharsa, Dist.-Saharsa.

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr.

For the Opposite Party/s : Mr. Anuj Kr.Srivastava (App)

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CORAM: HONOURABLE MR. JUSTICE MUNGESHWAR SAHOO
ORAL ORDER

5 09-07-2015 Heard the learned counsel, Mr. Ranjit Sinha for the petitioners and the learned counsel, Mr. Praful Chandra Thakur for the O.P. No.2 and learned A.P.P. for the O.P. No.1.

This criminal miscellaneous application has been filed under Section 482 Cr.P.C. by the petitioners for quashing the order dated 18.11.2011 passed by the learned S.D.J.M., Saharsa in complaint case No.358(c) of 2011 by which the learned S.D.J.M. has taken cognizance against all the petitioners under Section 3/4

of the Dowry Prohibition Act and Section 498A I.P.C.

The learned counsel for the petitioners submitted that the husband of the complainant had died in the year 2010 and thereafter this false complaint case has been filed with allegation that these petitioners demanded dowry from the complainant and dragged her out from the house. The allegation is also against father-in-law. The father-in-law prior to filing this complaint application had already filed information petition before the S.D.O. alleging that the petitioners including the father-in-law of the complainant might be involved in a false case and in fact, the complainant herself taking all the valuable ornaments had left the house and had gone to her parent's house. The father-in-law of the complainant has also died and then subsequently, the complainant herself has remarried.

According to the learned counsel, before the court also, the complainant has admitted that she has married. There is contradiction in her application and deposition, therefore, order taking cognizance may be quashed.

On the other hand, the learned counsel for the O.P. No.2 objected and submitted that there is direct allegation of demand of dowry and because of demand of dowry and pressure, she had left the matrimonial house and was compelled to live with

her parents. In such circumstances, this Court cannot try the matter at this stage because of the fact that trial is going to be completed within short period.

Perused the complaint application and the order taking cognizance. It appears that there is direct allegation of demand of dowry by these petitioners including the father-in-law who subsequently died. All the submissions made by the learned counsel for the petitioners are questions of fact and relate to appreciation of evidence. Merely because an information application had been filed prior to filing of the complaint case, the order taking cognizance cannot be quashed. From perusal of the complaint application, it is clear that a case under Section 498A and 3/4 of the Dowry Prohibition Act is made out.

The Honb'le Supreme Court in (2008) 4 Supreme Court Cases 471(Central Bureau of Investigation v. K.M.Sharan) has held that "High Court is not supposed to embark upon the enquiry whether the allegations in F.I.R. and the chargesheet were reliable or not and thereupon to render definite finding about truthfulness or veracity of the allegations. The test is whether allegations made in the F.I.R. and the chargesheet taken on their face value and accepted in their entirety would prima facie constitute an offence for making out a case against the accused."

No doubt, here, in this present case at our hand, it is not an F.I.R.
but the same principle is applicable in case of complaint also.

In view of the above facts and circumstances of the
case, I do not find any merit in this application and accordingly, it
is dismissed.

(Mungeshwar Sahoo, J)

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