

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.5933 of 2015

Arising Out of PS.Case No. -329 Year- 2003 Thana -DARBHANGA COMPLAINT CASE District-
DARBHANGA

=====

1. Raj Kumar Bansfore, S/o Late Rajesh Bansfore

2. Pappu Bansfore @ Shrawan Kumar, S/o Raj Kumar Bansfore

Both are residents of village-Nital Basti, P.S-Thakurganj, Distt-Kishanganj, as per
complaint petitioner is R/o Mohalla-Thakurganj Railway Station, P.S-
Thakurganj, Distt-Kishanganj

.... Petitioners

Versus

1. The State of Bihar

2. Rubi Devi D/o Sushil Ram, W/o Raj Kishore Raut, presently R/o Fourth Grade
Employees Quarter Colony, Allpatti, P.S-Laheriya Sarai, Distt-Darbhanga

.... Opposite Parties

=====

Appearance :

For the Petitioner/s : Mr. Bhola Prasad, Advocate

For the Opposite Party No.2 : Mr. Ashutosh Kumar, Advocate

For the State : Mr. Subhash Chandra Mishra, APP

=====

CORAM: HONOURABLE MR. JUSTICE ASHWANI KUMAR SINGH

ORAL 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 seeks quashing of the entire criminal proceeding arising
out of Complaint Case No. C.R.-329/2003 including the order dated
01.07.2003 passed by the learned Sub-Divisional Judicial

Magistrate, Darbhanga whereby after finding a prima facie case to be made out under Section 498-A of the Indian Penal Code and 3 & 4 of the Dowry Prohibition Act, the petitioners have been summoned to face trial.

2. According to the prosecution case, as narrated by the complainant/opposite party no. 2 in her complaint is that she was married to one Raj Kishore Raut on 29.04.1999 at Darbhanga. She was blessed with two children out of the said wedlock. It is stated that initially there was no dispute with her husband after marriage, but later on the husband and her mother started subjecting her to cruelty for non-fulfilment of demand of Rs. 60-70 thousand. It is further stated that on 30th March, 2003 her husband took her to Darbhanga, assaulted her and went away leaving her alone. There is a casual reference in the complaint that the petitioner no. 2 happens to be a close friend of the husband of the complainant and petitioner no. 2 is his son. It has been stated that they also used to instigate her husband in subjecting her to cruelty.

3. The complainant was examined on solemn affirmation and in course of inquiry conducted under Section 202 Cr. P.C., altogether four witnesses were examined on behalf of the complainant. After examining the complainant on solemn affirmation and her witnesses under Section 202 Cr. P.C., the

petitioners along with the husband and mother-in-law of the complainant were summoned under Section 204 Cr. P.C. to face trial.

4. Mr. Bhola Prasad, learned counsel for the petitioners has submitted that there is no allegation of demand of dowry as against the petitioners and, hence, the petitioners could not have been summoned under Section 3 & 4 of the Dowry Prohibition Act. He further submits that the term “relative of the husband of a woman” used in Section 498-A of the Indian Penal Code would not include the petitioners into its ambit. He submits that in that view of the matter, summoning the petitioners in the present case by the learned Sub-Divisional Judicial Magistrate is wholly illegal and unsustainable in the eye of law.

5. Mr. Ashutosh Kumar, learned counsel for the opposite party no. 2 has opposed the prayer made on behalf of the petitioners. He submits that there is a specific and definite allegation as against the husband and mother-in-law of the complainant that they coerced the complainant in her marital home for non-fulfilment of demand of dowry. Therefore, he submits that there is no illegality in the order of the Magistrate so far as the summoning of the husband and mother-in-law of the complainant is concerned. He further submits that so far as these two petitioners

are concerned, there is allegation that they are neighbourers of the husband of the complainant and they abetted the crime.

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

7. Section 498-A of the Indian Penal Code reads as under:-

“498-A. Husband or relative of husband of a woman subjecting her to cruelty.- Whoever, being the husband or the relative of the husband of a woman, subjects such woman to cruelty shall be punished with imprisonment for a term which may extend to three years and shall also be liable to fine.

Explanation.-For the purposes of this section, ‘cruelty’ means-

(a) any willful conduct which is of such a nature as is likely to drive the woman to commit suicide or to cause grave injury or danger to life, limb or health (whether mental or physical) of the woman; or

(b) harassment of the woman where such harassment is with a view to coercing her or any person related to her to meet any unlawful demand for any property or valuable security or is on account of failure by her or any person related to her to meet such demand.”

8. The ingredients of Section 498-A of the Indian

Penal Code are:

- (a) The woman must be married;
- (b) She must be subjected to cruelty or harassment; and
- (c) Such cruelty or harassment must have been shown either by husband of the woman or by the relative of her husband.

9. The petitioners have been summoned by the court below without appreciating the fact as to whether they would be covered within the ambit of the expression “relative of the husband” used in Section 498-A of the Indian Penal Code. The term “relative” has not been defined under the Indian Penal Code.

10. In **U. Suvetha v. State & Anr [(2009 3 SCC (Cri) 36)]**, the Supreme Court has observed that in absence of any statutory definition, the term “relative” must be assigned a meaning as is commonly understood. Ordinarily it would include father, mother, husband or wife, son, daughter, brother, sister, nephew or niece, grandson or granddaughter of an individual or the spouse of any person. The meaning of the word “relative” would depend upon the nature of the statute. It principally includes a person related by blood, marriage or adoption.

11. In the present case, the admitted position is that the petitioners are not related by blood, marriage or adoption to the husband of the complainant.

12. In my considered opinion, by no stretch of

imagination a friend of the husband of a woman would be covered within the meaning of the expression “relative of the husband” used in Section 498-A of the Indian Penal Code.

13. In that view of the matter, I have no doubt in my mind that the petitioners are not related to the husband of the complainant in any manner.

14. For the reason aforementioned, the impugned order dated 01.07.2003 passed by the learned Sub-Divisional Judicial Magistrate, Darbhanga in Complaint Case No. C.R. 329/2003, so far as it relates to the petitioners of the present case is set aside.

15. The application stands allowed.

(Ashwani Kumar Singh, J.)

Sanjeet/-

U		T	
---	--	---	--