

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.62 of 2015

Arising Out of PS.Case No. -171 Year- 2008 Thana -NAUBATPUR District- PATNA

1. Shyam Kali Devi, W/o Uma Shankar Sharma @ Uma Shankar Singh
2. Uma Shankar Sharma @ Uma Shankar Singh S/o Late Ram Kripal Singh, Both R/v Chhoti Tangaraila, P.S. Naubatpur, Distt. Patna

.... Petitioners

Versus

State of Bihar

2. Reena Kumari W/o Dheeraj Kumar and D/o Dangaleshwar Singh, R/v Mahajpura, P.S. Bikram, Distt. patna

.... Opposite Parties

Appearance :

For the Petitioner/s : Mr. Usha Kumari Singh

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

CORAM: HONOURABLE MR. JUSTICE ASHWANI KUMAR SINGH

ORAL JUDGMENT

Date: 13-08-2015

1. Heard learned counsel for the petitioners and learned counsel for the State.

2. In the present application filed under Section 482 of the Code of Criminal Procedure (for short the 'Code'), the petitioners seek quashing of the order dated 21.08.2013 passed by the learned Sub-Divisional Judicial Magistrate, Danapur (Patna) in Naubatpur P.S. Case No. 171 of 2008, whereby the application for discharge filed by the petitioners under Section 239 of the Code has been dismissed.

3. The F.I.R. is based on the written statement of one Reena Devi. She has stated that she was married to Dheeraj Kumar, son of the petitioners, on 3.5.2003, however, immediately after the marriage,



the petitioners started subjecting her to cruelty for non-fulfillment of demand of Rs. 1,50,000/- (Rs. One lac and fifty thousand only). A vivid description of the manner in which she was being assaulted in her matrimonial home has been given in the written report dated 17.05.2008, on the basis of which Naubatpur P.S. Case No. 171 of 2008 was registered under Section 498-A of the Indian Penal Code and also 3 & 4 of the Dowry prohibition Act.

4. After completion of investigation, the Investigating Officer of the case submitted charge-sheet against the petitioners and the learned Magistrate took cognizance of the offence. At the stage of framing of charge, an application under Section 239 of the Code was filed seeking discharge of the petitioners from the aforesaid case. The learned Magistrate considered the allegations made in the F.I.R. and the materials collected during investigation and came to a finding that there are sufficient materials to proceed against the petitioners. Accordingly, the application filed under Section 239 of the Code was rejected by order dated 21.08.2013, which is under challenge before this Court.

5. It is contended by learned counsel for the petitioners that there is a general and omnibus allegation against altogether 5 persons named in the F.I.R. including these two petitioners. Another co-accused Neeraj Kumar having identical allegation to that of the



petitioners, filed an application under Section 482 of the Code before this Court seeking his discharge. A Bench of this Court, vide order dated 03.07.2013 passed in Cri. Misc. No. 23864 of 2012 allowed the application filed on behalf of the co-accused Neeraj Kuamr and set aside the order dated 13.09.2011 by which the application under Section 239 of the for his discharge was rejected by the Court below.

6. Learned counsel for the State has opposed the prayer made on behalf of the petitioners. He has submitted that in case of co-accused Neeraj Kumar, a co-ordinate Bench of this Court has given a clear finding that there is specific allegation against the husband, father-in-law and mother-in-law that they demanded Rs. 1,50,000/- as dowry from the informant and subjected her to cruelty for non-fulfillment of demand of dowry in her matrimonial home.

7. I have heard respective counsel for the parties, perused the record and the order passed in Cri. Misc. No. 23864 of 2012. I find substance in the argument advanced by the learned counsel for the State. There is specific allegation against the petitioners in the First Information Report and in course of investigation, witnesses have supported the allegations made in the F.I.R. in their statements recorded under Section 161 of the Code.

8. In that view of the matter I find no illegality in the order dated 21.08.2013, whereby the application for discharge filed on

behalf of the petitioners has been rejected by the Court below.

9. The application, being devoid of any merit, is dismissed.

(Ashwani Kumar Singh, J)

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