

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.39792 of 2012

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1. Om Prakash Jha S/O Late Rameshwar Jha Resident Of Village- Bhagwanpur, P.S- Banka, Distt- Banka.
 2. Renu Devi W/O Om Prakash Jha Resident Of Village- Bhagwanpur, P.S- Banka, Distt- Banka.
 3. Khushbhu Kumari D/O Om Prakash Jha Resident Of Village- Bhagwanpur, P.S- Banka, Distt- Banka.
 4. Suresh Jha S/O Nar Singh Jha Resident Of Village- Bhagwanpur, P.S- Banka, Distt- Banka.
 5. Sanyukta Devi W/O Suresh Jha Resident Of Village- Bhagwanpur, P.S- Banka, Distt- Banka.
 6. Lavli Kumari D/O Suresh Jha Resident Of Village- Bhagwanpur, P.S- Banka, Distt- Banka.

.... Petitioner/s

Versus

1. The State Of Bihar
2. Smt. Sabita Jha W/O Pritam Jha And D/O Late Rameshwar Jha Resident Of Village- Bhagwanpur, P.S- Banka, District- Banka, Presently Residing At Village Chandu Baithan, P.O And P.S- Saraiyahat, Distt- Dumka.

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Ranjan Kumar Jha,
Mr. Mirtunjay Kumar Mishra, Advocates.

For the State : Mr. Asha Devi (App)

For the Informant : Mr. Rajib Ranjan Jha, Advocate

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CORAM: HONOURABLE MR. JUSTICE SHIVAJI PANDEY
ORAL ORDER

3 09-04-2015 Heard the parties.

2. This application has been filed for quashing the order dated 30.4.2011 passed by the Chief Judicial Magistrate, Banka in Banka P.S. Case No.284 of 2007, G.R. No.1377 of 2007, T.R. No.1092 of 2011 by which cognizance has been taken against the petitioners under Sections 341, 323, 316, 504 and 498(A) of the Indian Penal Code and Sections 3/4 of the Dowry Prohibition Act.

3. In the First Information report there is an allegation that one Pritam Jha has entered into marriage in the year 1999 under the Hindu custom. After Duragman she went to her Sasural at Dumka and started living with her husband and other family members of her father-in-law. Allegation has been made that she remained peacefully for about six months, after that the Sasural people started torturing her for bringing Rs. 1,50,000/- from her parents side as they were of the view that at the time of marriage sufficient dowry was not offered to them. It has further been alleged that while staying in her Sasural she used to be assaulted by her in-laws and on that account there was premature termination of pregnancy of six months. She returned to her father's place. Her father-in-law Suresh Jha came to her parent's house at Banka, gave assurance that she will be kept in her Sasural fairly and properly with full dignity. Such assurance was given to police that family members of in-laws will not repeat the same incident she went to her in-laws house. The situation did not improve. It has further been alleged that on 8.9.2007 in the morning at 6/7 O'clock while she was preparing tea for the family members, her mother-in-law came and poured hot tea on her body which caused sever injury to her. Thereafter she

informed the same to her brother who approached the police and the police filed the present First Information Report.

4. On perusal of the First Information report it appears that there is specific allegation against the husband and mother-in-law but there is vague allegation against other family members. The Hon'ble Supreme Court in the case of Priti Gupta , reported in AIR 2010 SC 3363= 2010(4) PLJR SC 36 has taken cognizance for filing application against all family members under section 498(A) of the Indian Penal Code, tendency to implicate all the family members with a view to harass them and in a case of vague and omnibus allegation the Court has taken a view that the same should not be allowed to continue. It will be relevant to quote paragraph nos. 34 and 35 of the aforesaid judgment:

“34. Unfortunately, at the time of filing of the complaint the implications and consequences are not properly visualized by the complainant that such complaint can lead to insurmountable harassment, agony and pain to the complainant, accused and his close relations.

35. The ultimate object of justice is to find out the truth and punish the guilty and protect the innocent. To find out the truth is a Herculean task in majority of these complaints. The tendency of implicating the husband and all his immediate relations is also not uncommon. At times, even after the conclusion of the criminal trial, it is difficult to ascertain the real truth. The courts have to be extremely careful and cautious in dealing with these complaints and must take

pragmatic realities into consideration while dealing with matrimonial cases. The allegations of harassment of husband's close relations who had been living in different cities and never visited or rarely visited the place where the complainant resided would have an entirely different complexion. The allegations of the complainant are required to be scrutinized with great care and circumspection."

5. In another judgment in the case of reported in 2013 (1) PLJR SC 10, the Hon'ble Supreme Court has taken similar view.

6. In the present case there is specific allegation against petitioner no.5 who is alleged to have poured the hot tea on her body. This Court is of the view that in such a situation it will not be proper for this Court to pass any order in favour of petitioner no.5.

7. Om Prakash Jha (petitioner no.1) is maternal father-in-law, Renu Devi (petitioner no.2) is maternal mother-in-law, Khushbu Kumari (petitioner no.3) is unmarried daughter of petitioner nos. 1 and 2, Suresh Jha (Petitioner no.4) is father-in-law and Lavli Kumari (petitioner no.6) is the sister-in-law. There is no direct allegation against them, only vague and omnibus allegation has been made against them. It will be travesty of justice if the aforesaid persons will be compelled to face the criminal trial.

8. In this view of the matter the order of cognizance dated 30.4.2011 passed in Banka P.S. Case No.284 of 2007, G.R. No.1377 of 2007, T.R. No.1092 of 2011, so far its relates to petitioner nos. 1, 2, 3, 4 and 6, is hereby quashed and the trial court is directed to proceed against petitioner no.5, Sanyukta Devi.

9. With the aforesaid observation this application is disposed of.

(Shivaji Pandey, J)

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