

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.49419 of 2012

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1. Deepak Kumar Sharma @ Guddu S/O Late Lallan Sharma Resident Of Village- Tekari Road Gosai Bagh, P.S- Kotwali, (Gaya), District- Gaya.
 2. Shakuntala Devi W/O Late Lallan Sharma Resident Of Village- Tekari Road Gosai Bagh, P.S- Kotwali, (Gaya), District- Gaya.
 3. Seema Devi W/O Pramod Sharma Resident Of Ramsagar Talab (North) Gaya, P.S- Gaya Civil Line, District- Gaya.
 4. Pramod Sharma @ Pramod Kumar S/O Late Raghunandan Sharma Resident Of Ramsagar Talab (North) Gaya, P.S- Gaya Civil Line, District- Gaya.

.... Petitioner/s

Versus

1. The State Of Bihar
2. Ramnika Devi @ Moni W/O Deepak Kumar Sharma And D/O Sri Krishna Prasad Resident Of Village Lodi Katra Baghmalu Khan, P.S- Chowk, District- Patna.

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. M.M. Kateryar
For the Opposite Party/s : Mr. Uday Chand Pd.(App)

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CORAM: HONOURABLE MR. JUSTICE CHAKRADHARI
SHARAN SINGH

ORAL ORDER

5 13-03-2015 This is an application seeking quashing of the order dated 28.09.2012 passed by learned Sub-Divisional Judicial Magistrate, Patna City in C.A. No. 1038/2006 by which he has rejected prayer of the petitioners for discharging them. The petitioners have been made accused in a case punishable under Sections 498(A)/379 of the Indian Penal Code.

From the order of the Court below which is impugned in the present application, it appears that the Court below has considered the allegation made in the complaint petition along with the evidence of witnesses examined before charge.

Petitioner No. 1 is the husband of the complainant

whereas petitioner no.2 is her mother-in-law. Petitioner No. 3 and 4 are sister and brother-in-law of petitioner No. 1.

Learned counsel appearing on behalf of the petitioner assailing the order impugned has contended that so far as petitioners No. 3 and 4 who are sister and brother-in-law of the husband of the complainant are concerned, there is no direct allegation against them and it is unbelievable that they would have tortured the complainant for demand of dowry.

The submission cannot be accepted in a proceeding under Section 482 of the Code of Criminal Procedure as such defence/explanation can be seen in course of trial only. The petitioners have not taken the plea that there is absolutely no material either in the complaint petition or in the evidence of the witnesses examined before framing of charge constituting offence against the petitioners.

I do not find any reason to quash the impugned order in exercise of extraordinary power under Section 482 of the Code of Criminal Procedure Code.

This application is dismissed.

(Chakradhari Sharan Singh, J.)

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