

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No. 2360 of 2016

Arising Out of PS.Case No. -02 Year- 2015 Thana -MAHILA PS District- AURANGABAD

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1. Md. Shamshad @ Samshad Ahmad S/o Late Mumtaz
2. Nasima Khatoon W/o Reaujuddin Ahmad Kadri
Both are resident of Mohalla- Nawadih, P.S.- Aurangabad (T), District- Aurangabad.

.... Petitioners

Versus

1. The State of Bihar
2. Hena Kaishar W/o Imteyaz Ahmad Quadri, resident of Mohalla- Nawadih, P.S.- Town, District- Aurangabad (Bihar)

.... Opposite Parties

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Appearance :

For the Petitioner/s : Mr. Krishna Pd. Singh, Sr. Adv.

Mr. Saket Kr. Singh, Adv.

For the Opposite Party/s : Mr. A.Dayal (App)

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CORAM: HONOURABLE MR. JUSTICE RAKESH KUMAR
ORAL ORDER

2. 26-08-2016 Heard Sri Krishna Prasad Singh, learned senior counsel assisted by Sri Saket Kumar Singh, learned counsel for petitioners and Sri Akhileshwar Dayal, learned Addl. Public Prosecutor.

Two petitioners, who are maternal uncle and mother of husband of the informant, have approached this Court invoking its inherent jurisdiction under Section 482 of the Code of Criminal Procedure for quashing of an order dated 19-11-2015 passed by learned Sub Divisional Judicial Magistrate, Aurangabad in Mahila P.S. Case No. 02 of 2015, corresponding to G.R. No. 130 of 2015/T.R. No. 2338 of 2015. By the said order, after submission

of charge-sheet, learned Magistrate has passed order of cognizance for offence under Section 498(A) of the Indian Penal Code and Sections 3 & 4 of the Dowry Prohibition Act, 1961.

Sri Singh, learned senior counsel, while pressing the petition, submits that from the F.I.R. itself, it is evident that so far as petitioners are concerned, there is no allegation of commission of offence under Section 498(A) of the I.P.C. He submits that as per F.I.R., after 4-5 days from the marriage, the informant went with her husband and thereafter, she was tortured by the husband only and as such, no case is made out against the petitioners.

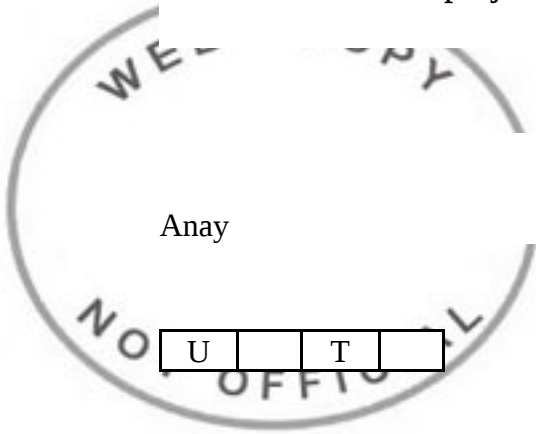
However, learned Addl. Public Prosecutor, by way of referring to F.I.R., submits that there is specific accusation regarding demand of dowry and cognizance order has been passed under Section 498(A) of the I.P.C. as also for offence under Sections 3 & 4 of the Dowry Prohibition Act, 1961.

In view of facts and circumstances, particularly non-availability of any specific ground warranting interference with the impugned order, there is no reason to pass any favourable order.

The petition stands dismissed.

However, it is made clear that whatever fact has been noted by this Court, that was considered only in respect of the

present quashing application. The petitioners may not be prejudiced by this order during trial.



(Rakesh Kumar, J.)