

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Revision No.497 of 2013

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1. Arti Devi, Wife of Manoj Kumar, Resident of Barauli,
Police Station- Barauli, District- Gopalganj, present residing
at the house of Madan Prasad, resident of Village- Ratan
Sarai Malikana, P.O. & P.S.- Barauli, District- Gopalganj.

.... Petitioner/s

Versus

1. The State of Bihar.
2. Sanjay Kumar Gupta, Son of Tarachand Gupta.
3. Poonam Devi, Wife of Sanjay Kumar Gupta.
4. Ajay Kumar Gupta, Son of Tarachand Gupta.
5. Puspa Devi, Wife of Ajay Kumar Gupta.
Resident of Village- Barauli, P.O. & P.S. Barauli, District-
Gopalganj- 841405.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Shafiur Rahman, Adv.

For the Respondent/s : Mr. Bharat Bhushan (App)

Mr. Vikas Ratan Bharti, Adv.

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**CORAM: HONOURABLE MR. JUSTICE CHAKRADHARI
SHARAN SINGH**

ORAL ORDER

7 15-12-2016

Interlocutory Application No. 955 of 2016:

Heard learned counsel for the petitioner,
learned Additional Public Prosecutor for the State and
learned counsel for the opposite party Nos. 2 to 5.



The interlocutory application has been filed for condoning the delay in filing of the present revision application in order to challenge an order dated 20.07.2010.

The petitioner is the complainant of Complaint Case No. 336 of 2010 filed in the Court of learned Chief Judicial Magistrate, Gopalganj, disclosing offences punishable under Sections 498A and 406 of the Indian Penal Code and Section 3/4 of the Dowry Prohibition Act. In the said application, she (the petitioner) implicated her husband, namely, Manoj Kumar, her father-in-law, namely, Tarachand Gupta, and mother-in-law, namely, Sushila Devi, as an accused. She also implicated the brothers of her husband, namely, Sanjay Kumar Gupta and Ajay Kumar Gupta, and their wives, namely, Pushpa Devi and Poonam Devi, as accused.

Upon examination of the complaint petition and the statement of the witnesses made on behalf of the prosecution at the stage of enquiry, it appears that learned Court of Sub-Divisional Judicial Magistrate, Gopalganj, took cognizance of the offences and decided to proceed against the husband, father-in-law and mother-in-law of the complainant only. So far as other accused persons, i.e., brothers of the husband of the



complainant and their wives are concerned, learned Sub-Divisional Judicial Magistrate found that no *prima facie* case was made out against them and, accordingly, the Court decided not to proceed against them. The said order, dated 20.07.2010, was not questioned by the complainant, who is the petitioner herein. Secondly, by an order, dated 14.03.2013, learned Sub-Divisional Judicial Magistrate has framed charges of the offences punishable under Sections 498A and 406 of the Indian Penal Code and Section 3/4 of the Dowry Prohibition Act against the said three persons, namely, the husband, father-in-law and mother-in-law of the complainant.

Thereafter, the present criminal revision application has been filed, under Section 397 read with Section 401 of the Code of Criminal Procedure, challenging the order, taking cognizance, dated 20.07.2010 and the order, dated 14.03.2013, whereby, the charge has been framed.

It is the grievance of the petitioner that there was enough material for the learned court below to have framed charge against the brothers of the husband of the complainant and their wives.

So far as application for condonation of delay, filed in the year 2016, in order to assail the order, taking



cognizance, dated 20.07.2010, is concerned, I find that it does not make out a case that there existed any sufficient reason, which prevented her from filing any application within time. Further, I do not find any illegality in the said order dated 20.07.2010.

Interlocutory Application No. 955 of 2016 stands dismissed since the delay does not deserve to be condoned.

Further, as is evident, the Court has found that no *prima facie* case has been made out against opposite party Nos. 2 to 5 at the time of taking of cognizance, there would have been no occasion for framing of charge against them, as they were not even summoned by the learned court below.

The tendency of the litigants of implicating the family members of the husband has been deprecated several times by this Court and Supreme Court also. The present proceeding is a glaring example where the complainant is raising a grievance against non-framing of charge against such persons, who were not even summoned by the learned court below after taking cognizance of the offence.

This application is frivolous and deserves to be dismissed with cost.



This application is, accordingly, dismissed with cost of Rs. 1,000/- (Rupees One Thousand) each to be paid to the opposite party Nos. 2 to 5 within a period of three (3) months from today.

(Chakradhari Sharan Singh, J.)

Praveen-II/-

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