

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.5719 of 2014

Arising Out of PS.Case No. -45 Year- 2011 Thana -BHAGALPUR COMPLAINT CASE District-
BHAGALPUR

- =====
1. Sabo Devi Wife Of Manoj Ram
 2. Lalita Devi @ Babli Devi Wife Of Bishu Deo Ram
 3. Manoj Ram Son Of Late Naresh Ram
 4. Bishnu Deo Ram Son Of Lat Suresh Ram
 5. Shekhar Ram Son Of Late Suresh Ram All Resident Of Village -
Udadih, Bhirkhud, P.S.- Sultanganj, District - Bhagalpur

.... Petitioners

Versus

1. The State Of Bihar.
2. Rani Devi Daughter Of Binay Singh Resident Of Village - Bhumihara,
P.S.- Parmanandpur, District - Banka

.... Opposite Parties

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Appearance :

For the Petitioners : Mr. Bachan Jee Ojha, Advocate
For the Opposite Parties : Mr. Sammir Ranjan, Advocate
For the State : Mr. Jharkhandi Upadhyaya, APP.

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**CORAM: HONOURABLE MR. JUSTICE ASHWANI KUMAR
SINGH**
ORAL ORDER

3 15-11-2016 This application under Section 482 of the Code of Criminal Procedure has been filed for quashing the order dated 22.01.2013 passed by the learned Judicial Magistrate, Ist Class, Bhagalpur in Complaint Case No.C-45/2011 by which the petitioners have been summoned to face trial for the offences punishable under Sections 323 and 498A of the Indian Penal Code.

The cognizance of the offence has been taken on the basis of a complaint filed on 7th January, 2011 before the learned



Chief Judicial Magistrate, Bhagalpur wherein it has been stated that the complainant was married to the petitioner no.5 Shekhar Ram on 30th May, 2005. The complainant was kept well in her matrimonial house for about two years but thereafter the accused persons started demanding a Hero-Honda motorcycle and a golden chain. When the father of the complainant came to know about the said demand, he expressed his inability to fulfill the same whereafter the husband of the complainant assaulted her mercilessly. The other family members also insisted upon the demand.

In support of the allegation made in the complaint, the statement of the complainant was recorded on oath and apart from the complainant the statements of three other witnesses were also recorded under Section 202 of the Code of Criminal Procedure.

On perusal of complaint and on appreciation of the statements of the complainant and witnesses recorded during enquiry, the learned Magistrate summoned the petitioners to face trial for the offences under Sections 323 and 498A of the Indian Penal Code vide order dated 22nd January, 2013.

It is contended that the petitioner no.1 Sabo Devi is cousin sister-in-law (Gotani) of the complainant. Petitioner no.3 Manoj Ram is her husband. Petitioner no.2 Lalita Devi is elder

sister-in-law (Gotani) of the informant whereas petitioner no.4 Bishnu Deo Ram is her husband.

It has been contended that the witnesses examined during enquiry have given contradictory statement to each other. However, they all have admitted that for about three years, the complainant was kept well in her matrimonial home. There is a general and omnibus allegation as against the petitioners no.1 to 4 and they have been implicated in the case only because they are related to the husband of the complainant.

Learned counsel for the Opposite Party No.2 has submitted that there is no illegality in the impugned order. Petitioner no.5 Shekhar Ram being husband of the complainant and his relatives are alleged to have subjected the complainant to cruelty for non-fulfilment of demand of dowry. I have heard learned counsel for the parties and perused the materials available on record. I find that the allegation of demand made against the petitioners no.1 to 4 is general and omnibus. The witnesses examined during enquiry have also stated that the complainant was being kept well in her matrimonial home for about three years. I also find that no specific allegation of demand or assault is made against the relatives of the husband of the complainant.

Regard being had to the materials available on record,

in my considered opinion, the Court below has erred in summoning the petitioners no.1 to 4 who are not concerned with the day to day matrimonial affairs of the complainant and her husband petitioner no.5 Shekhar Ram.

In that view of the matter, the cognizance taken against them and their summoning order are set aside.

The application so far as petitioner no.5 Shekhar Ram is concerned, is dismissed. The trial Magistrate shall proceed against him in accordance with law. The application stands allowed to the extent indicated hereinabove.

(Ashwani Kumar Singh, J)

B.Kr./-

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