

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.6049 of 2014

Arising Out of PS.Case No. -586 Year- 2013 Thana -PATNA COMPLAINT CASE District- PATNA

1. Surendra Kumar Sinha S/O Late Khandh Ji Sahai Srivastava
2. Manju Sinha W/O Sri Surendra Kumar Sinha Both Are Resident Of Village -
Plot No. 301, Surya Lok Apartment, Budha Colony, P.S. - Budha Colony, Distt. -
Patna

.... Petitioner/s

Versus

1. The State Of Bihar
2. Swati Nigam W/O Sri Praveen Pankaj, D/O Sri Santosh Nigam R/V 22(A)
Muktaram Babu Street Bara Bazar.

.... Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Vijay Kumar Sinha, Adv.

For the Opposite Party/s : Mr. Jharkhandi Upadhyay, APP

CORAM: HONOURABLE MR. JUSTICE ASHWANI KUMAR SINGH

ORAL JUDGMENT

Date: 15-11-2016

This application under Section 482 of the Code of Criminal Procedure has been filed for quashing of the order dated 21st May, 2014 passed by the learned Sub Divisional Judicial Magistrate, Patna by which finding a prima facie case to be made out under Section 498-A of the Indian Penal Code and Section 4 of the Dowry Prohibition Act in connection with Complaint Case No. 586(C) of 2013, petitioners have been summoned to face trial.

2. The complainant-opposite party no.2 has stated in the complaint that she was married to the accused Praveen Pankaj on 4th



July, 2010 according to Hindu rites and rituals and after marriage she came to her *sasural* at Patna on 5th July, 2010 and resided there for eight months where her husband started demanding Rs.5 lakhs and an Alto Car and when she opposed such demand, she was abused and assaulted by him. The efforts made by the complainant's father to resolve the issue through negotiations could not bring any positive result. Ultimately, the accused persons including the two petitioners are alleged to have driven the complainant out of her matrimonial home after retaining all her belongings. The complainant and the inquiry witnesses have supported the allegations made in the complaint.

3. A plea has been taken on behalf of the petitioners that a false case has been instituted by the complainant with mala fide intention. It has also been pleaded that prior to the institution of the present complaint the husband of the complainant had filed a divorce petition before the court of Principal Judge, Family Court, Patna vide Matrimonial (Divorce) Case No. 432 of 2012 under Section 13 of the Hindu Marriage Act on 12th June, 2012 and the said case was admitted on 5th September, 2012. The present complaint was instituted by the complainant only after a notice was issued to her in the aforesaid Matrimonial (Divorce) case. It is submitted that the complaint has been filed on 22nd February, 2013 in retaliation to the

divorce case filed by her husband before the learned Principal Judge, Family Court, Patna.

4. Learned counsel for the State has submitted that the defence taken by the petitioners can be examined by the court only at the appropriate stage. He has submitted that merely because a divorce case had been instituted prior in time, it cannot be presumed that the complainant has launched the prosecution against the accused persons with mala fide intention.

5. I have perused the materials on record. On perusal of the record, it would be evident that it has clearly been stated in the complaint that for non-fulfillment of demand of Alto Car and Rs.5 lakhs in cash, the complainant was driven out of her matrimonial home by her husband and her in-laws. The petitioners are father-in-law and mother-in-law of the complainant. The complainant has supported her statement made in the complaint in her statement made on oath. The other witnesses, who were examined in course of inquiry, have also supported the allegations made in the complaint.

6. Under the circumstances, in the opinion of this Court, there is no illegality in the order passed by the learned Magistrate as it cannot be said that simply because the Matrimonial (Divorce) case was instituted prior in time the complaint launched by the complainant is malicious. Accordingly, the application is dismissed.

7. However, the petitioners would be at liberty to raise all the points available to them at the stage of framing of charge.

(Ashwani Kumar Singh, J)

Pradeep/-

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Transmission Date	