

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.14168 of 2013

Arising Out of PS.Case No. -1995 Year- 2011 Thana -GOPALGANJ COMPLAINT CASE District-
GOPALGANJ

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Uday Kumar Pandey @ Uday Kumar S/O Sri Harinath Pandey Resident of
Mohalla- Chhota Govindpur, Kailash Nagar, P.S- Govindpur (Jamshedpur),
District- East Singhbhum (Jharkhand)

.... Petitioner/s

Versus

1. The State Of Bihar
2. Arbind Rai S/O Late Ramchandra Rai Resident of Village- Taruchak,
P.S- Meerganj, District- Gopalganj (Bihar)
3. Renu Rai, daughter of Sri Arbind Rai, resident of village Taruchak, P.S.
Meerganj, District – Gopalganj (Bihar)

.... Opposite Party/s

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Appearance :

For the Petitioner/s	:	Mr. Abhay Kumar Singh, Advocate Mr. Parmatma Singh, Advocate
For the State	:	Mr. Murli Dhar, APP
For the Informant	:	Mr. Ansul, Advocate Mr. Archit Rajpal, Advocate Mr. Shrey Anshu Kumar, Advocate Mr. Bhupendra, Advocate

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CORAM: HONOURABLE JUSTICE SMT. NILU AGRAWAL
ORAL JUDGMENT
Date: 31-08-2016

Heard learned counsel for the petitioner, learned
counsel for the wife, Renu Rai, the complainant father of Renu Rai
and learned A.P.P. for the State.

2. Petitioner seeks quashing of the order taking
cognizance dated 03.12.2011 passed by the learned Sub-Divisional
Judicial Magistrate, Gopalganj in Trial No. 3715 of 2013 arising out
of Complaint Case No. 1995 of 2011 under Sections 498A and 406 of
the Indian Penal Code and Sections 3/ 4 of the Dowry Prohibition Act.



3. Complaint Case No. 1995 of 2011 was filed by the wife's father on 05.09.2011 alleging therein that his daughter was married to the petitioner in the year 2000. At the time of marriage, complainant had given gift worth Rs. Seven lacs and jewellery to his daughter. However, after the marriage, the daughter of the complainant, namely, Renu Rai was not treated properly and on one occasion she was driven out from the matrimonial home after being divested of her personal belongings. The narration in the complaint petition further reveals that the victim went to Jamshedpur to reside with her husband. It has been stated that the husband of his daughter (petitioner) told the daughter of the complainant that she would not be allowed to live in the matrimonial home unless he is given a Maruti Car. Thereafter, the daughter of the complainant resides in the house of her father.

4. This matter has a long drawn chequered history. Initially, petitioner has filed a case before the learned Principal Judge, Family Court, Jamshedpur under Section 9 of the Hindu Marriage Act for restitution of conjugal rights. At the behest of the wife, Renu Rai, who filed an application before the Apex Court, the matter was transferred to Calcutta High Court and referred to its Legal Services Committee for mediation vide Mediation Case No. 01 of 2010. An agreement for settlement was reached and signed by both the husband

(petitioner) and the wife (Renu Rai) on 16.01.2010 before the Mediator of the said Legal Services Committee. Both husband and wife settled their dispute on the terms as follows:

- (i) *The petitioner, Uday Kumar Pandey, the husband will make a separate establishment where the husband and wife will live separately in Jamshedpur. Since the wife is living separately in Arunachal Pradesh, no separate arrangement is required during the stay in Arunachal Pradesh.*
- (ii) *In the separate establishment, the in-laws of both the husband and wife will not visit or interfere.*
- (iii) *Both, the husband and the wife will visit their daughter, who is living in hostel, at least once in four months and the daughter will live with the parents during her holidays.*
- (iv) *Both the husband and the wife will go together for holidays at least for 15 days in one year and wife will also contribute some expenses.*
- (v) *Both the husband and the wife will talk to each other on telephone everyday.*

5. After some time the terms of the mediation breached between the husband and the wife then father of the wife, Renu Rai lodged the present Complaint Case No. 1995 of 2011.



Petitioner-husband sought anticipatory bail in the aforesaid case and this Court vide order dated 08.01.2013 passed in Cr. Misc. No. 44506 of 2012 on the undertaking of the petitioner-husband that he will keep his wife with full dignity and honour granted provisional bail to the petitioner, confirmation of which was subject to fulfilment of three conditions i.e. (i) if the matrimonial harmony is substantially restored, (ii) if the daughter of the complainant deliberately refuses to reside with the petitioner and (iii) if the daughter of the complainant fails to appear before the learned Court below. It appears neither the mediation before the Calcutta High Court Legal Services Committee could fructify, nor provisional bail order was confirmed by the learned court below on one pretext or the other by both the petitioner-husband and the wife, Renu Rai.

6. Petitioner has approached this Court for quashing of the order taking cognizance dated 03.12.2011 in the aforesaid complaint case lodged by the father of the wife, Renu Rai. When the petitioner-husband filed this quashing application, once again the matter was referred to Patna High Court Mediation Centre for mediation and settlement of dispute vide order dated 19.09.2014 in which period of four months was granted for effectual mediation for settlement of disputes and till then further proceedings of the said Complaint Case No. 1195 of 2011 was also stayed by this Court.



Mediator's report was received on 07.01.2015 stating therein that mediation has failed. Once again efforts were made for settlement of dispute by this Court and by order dated 23.07.2015, both the petitioner-husband and wife, Renu Rai were directed to appear in person. Various orders were passed thereafter and in the meantime, petitioner-husband went to Arunachal Pradesh to stay with wife and wife came to Jamshedpur to stay with petitioner.

7. Today, both the petitioner and his wife, Renu Rai are present in person. Both agree to stay with each other, but there are minor differences between them, which I hope will be resolved, if both petitioner-husband and his wife, Renu Rai spend time with each other as and when they have holidays. Since the complaint case has been lodged by the father of the wife, Renu Rai, and she agrees to stay with her husband as and when she has holidays and agrees with the mediation as decided in Mediation Case No. 01 of 2010 and the husband is also ready to abide by the terms of Mediation Case No. 01 of 2010. During the pendency of this matter, petitioner had gone to Arunachal Pradesh and stayed with the wife and the wife had also come to Jamshedpur and stayed with her husband and no specific allegation has been levelled against each other during the stay. It has been pointed out by the learned counsel for the petitioner that this Court vide order dated 01.08.2014 passed in Cr. Misc. No. 9593 of

2013 has quashed the order taking cognizance so far father and mother of the petitioner is concerned. In the said order, it has been noted that had these allegations not been levelled against the father-in-law and mother-in-law, they could have been instrumental and hopeful in reconciling the difference between the husband and the wife.

8. Considering the aforesaid fact and circumstances that both the petitioner and his wife, Renu Rai have stayed with each other during the pendency of the present case and there is no allegation of any harassment, torture or demand of dowry, the order taking cognizance at the instance of the father of the wife is held to be bad as allowing such prosecution to continue would definitely be an abuse of the process of the Court.

9. The order taking cognizance dated 03.12.2011 passed in Trial No. 3715 of 2013 is thus quashed and the application is allowed.

(Nilu Agrawal, J.)

Arjun/-

AFR/NAFR	AFR
CAV DATE	
Uploading Date	
Transmission Date	