

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.10622 of 2016

Arising Out of PS.Case No. -118 Year- 2015 Thana -JANTA BAZAR District- SARAN

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1. Sri Hari Singh @ Hari Singh @ Sri Hari Kartar Singh, Son of Kartar Singh
2. Dr. Harishankar @ Harishankar Singh, S/o Kartar Singh
3. Rani Kanchan, W/o Dr. Harishankar Singh
4. Sri Nivas Singh, S/o Kartar Singh
5. Sarita Singh, W/o Sri Nivas Singh
6. Kartar Singh, W/o Ram Dutt Singh
7. Panjhari Devi, W/o Kartar Singh
All Resident of Village- Mirzapur, P.S.- Janta Bazar, District- Saran at Chapra.

.... Petitioners

Versus

1. The State of Bihar.
2. Gyanti Thakur, W/o Sri Hari Singh, D/o Late Satya Narayan Thakur, Permanent resident of Village- Medhuka , P.S.- Sahajitpur, District- Saran
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.... Opposite Parties

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Appearance :

For the Petitioners	:	Mr. Sanjeev Ranjan, Advocate
For the O.P.No.2	:	Mr. Vishwanath Pd. Sinha, Sr. Advocate
		Mr. Sanjay Kr. Singh, Advocate
For the State	:	Mr. A.M.P. Mehta (APP)

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CORAM: HONOURABLE MR. JUSTICE CHAKRADHARI SHARAN SINGH
ORAL ORDER

6 01-12-2016 This application under Section 482 of the Code of Criminal Procedure, 1973 (hereinafter referred to as the code) has been filed seeking quashing of the orders dated 20.12.2015/23.12.2015 whereby learned Additional Chief Judicial Magistrate, Saran at Chapra, has taken cognizance of the offence punishable under Section 498A/34 of the Indian Penal Code in connection with Janta Bazar P.S. Case No. 118 of 2015.

I have heard learned counsel for the petitioners and



learned senior counsel appearing on behalf of the opposite party no.2.

The petitioner no.1 is husband of opposite party no.2 whereas other petitioners are relatives of petitioner no.1 including father, mother, sister-in-law, brother etc.

The short point which has been argued on behalf of the petitioners for seeking quashing of the First Information Report is that even if the allegations made in the First Information Report are treated to be true, no offence under Section 498A of the Indian Penal Code is made out. It has been submitted that there is an allegation of adultery against the petitioner no.1 in the First Information Report. There is vague allegation but that per se would not constitute an offence under Section 498A of the Indian Penal Code.

Learned counsel for the petitioners has also argued that so far as relatives of petitioner no.1 are concerned, the allegation made in the First Information Report is totally vague and in the light of decision of Supreme Court in case of **Pritam Ashok Sadaphule and others Vs. State of Maharashtra and another** dated 19.03.2015 passed in Criminal Appeal No. 487 of 2015, the prosecution against persons other than husband (petitioner no.1) of the opposite party no.2 should not be allowed



to continue.

Learned senior counsel appearing on behalf of the opposite party no.2 on the other hand has submitted that there is specific allegation against the father and elder brother of petitioner no.1 of having thrashed the opposite party no.2 (the informant) out of house on a particular date and, therefore, offence under Section 498A is made out against them.

Before considering the rival submissions advanced on behalf of the parties, it would be apt to briefly note the contents on the First Information Report according to which the informant and petitioner no.1 were married on 08.05.2002. The petitioner no.1 and his family members thereafter subjected the informant to torture for bringing dowry. There is allegation that petitioner no.1 used to assault her mercilessly. There are children out of the wedlock between the petitioner no.1 and opposite party no.2. There is allegation that the informant's husband is having extra marital relationship with another woman. It has further been alleged that on 18.11.2015, when the informant had gone to her in-laws place, the petitioner no.1 had attempted to kill her and her father-in-law (petitioner no.6) and elder brother of her husband (petitioner no.2) had thrashed her and drove her out of the house.

On perusal of the First Information Report, I find



substance in the submissions made on behalf of the petitioners that allegation against the relatives of petitioner no.1 are vague and omnibus and in that background, learned counsel for the petitioners has rightly placed reliance on Supreme Court decisions in case of **Pritam Ashok Sadaphule and others (supra)**.

Learned counsel for the petitioners has relied on recent decisions of Supreme Court in case of **K.V. Prakash Babu Vs. State of Karnataka** dated 22.11.2016 in Criminal Appeal No(S). 1138- 1139 of 2016 in order to contend that the allegation of extra marital relationship per se would not constitute an offence under Section 498A of the Indian Penal Code. The said decision in my opinion has no application in the facts and circumstances of the present case since allegation of having extra marital affair against petitioner no.1 is not the only allegation made against him in the First Information Report.

Considering the Supreme Court decisions in case of **Pritam Ashok Sadaphule and others (supra)** and **K.V. Prakash Babu (supra)**, this application is allowed to the extent it relates to petitioner No.2 to 7 and the order taking cognizance dated 20.12.2015/23.12.2015 and issuance of summonses to the extent they relate to petitioner no.2 to 7 stands quashed.

So far as petitioner no.1 is concerned, he being the



husband of opposite party no.2 and there being specific allegation of torture amounting to cruelty within the meaning of Section 498A of the Indian Penal Code is concerned, this application is dismissed against the petitioner no.1 (husband of the opposite party no.2).

(Chakradhari Sharan Singh, J.)

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