

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.52052 of 2014

Arising Out of PS.Case No. -36 Year- 2011 Thana -MURLIGANJ District- MADHEPURA

Sanjiv Kumar Yadav, Son of Late Lakshman Prasad Yadav, Resident of Village-
Murliganj, P.S.- Murliganj, District-Madhepura

.... Petitioner

Versus

1. The State of Bihar
2. Khusbu Kumari (Devi), Wife of Sanjiv Kumar Yadav, D/o Sri Satish Kumar,
R/o Village + P.O.- Sri Nagar, P.S.- Ghailadh, District- Madhepura

.... Opposite Parties

with

Criminal Miscellaneous No. 826 of 2015

Arising Out of PS.Case No. -null Year- null Thana -null District- MADHEPURA

Rani Kumari D/o Shri Shyam Sunder Agrawal Resident of Village + P.S.
Murliganj, Dist.-Madhepura

.... Petitioner

Versus

1. The State of Bihar
2. Khusbu Kumar (Devi), Wife of Sanjiv Kumar Yadav, D/o Sri Satish Kumar
Resident of Village - + P.O. Sri Nagar, P.S.-Ghailadh, Dist.-Madhepura

.... Opposite Parties

with

Criminal Miscellaneous No. 1036 of 2015

Arising Out of PS.Case No. -36 Year- 2011 Thana -MURLIGANJ District- MADHEPURA

1. Ram Kumari Devi W/o Late Lakshman Prasad Yadav
2. Rani Kumari @ Priti Rani D/o Late Lakshman Prasad Yadav Both R/o Ward
No. 18, Village - Murliganj, P.S. - Murliganj, District - Madhepura

.... Petitioners

Versus

1. The State of Bihar
2. Khusbu Kumari (Wife) Wife of Sanjiv Kumar Yadav D/o Sri Satish Kumar R/o
Village + P.O. - Sri Nagar, P.S. - Ghailadh, District - Madhepura

.... Opposite Parties

Appearance :

(In Cr.Misc. No.52052 of 2014)

For the Petitioner : Mr. Awadhesh Kumar, Advocate
Mr. Rajeev Ranjan, Advocate

For the State : Mr. Gajendra Prasad Yadav, APP
For O.P. No.2 : Mr. Ramesh Singh, Advocate

(In Cr.Misc. No.826 of 2015)

For the Petitioner : Mr. Awadhesh Kumar, Advocate
Mr. Rajeev Ranjan, Advocate

For the State : Mr. Dilip Kumar, APP
For O.P. No.2 : Mr. Ramesh Singh, Advocate



(In Cr.Misc. No.1036 of 2015)

For the Petitioner : Mr. Awadhesh Kumar, Advocate
Mr. Rajeev Ranjan, Advocate
For the State : Mr. Shailendra Kumar-2, APP
For O.P. No.2 : Mr. Ramesh Singh, Advocate

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CORAM: HONOURABLE MR. JUSTICE ARUN KUMAR

ORAL JUDGMENT

Date: 22-11-2017

Heard learned counsel for the petitioners, learned Additional Public Prosecutor for the State as well as learned counsel appearing on behalf of opposite party no.2.

2. These three applications have been preferred against the common order dated 24.08.2012, passed by learned S.D.J.M., Madhepura in Murliganj P.S. Case No.36 of 2011 taking cognizance of the offence under Sections 498A/406/420 of the Indian Penal Code and the petitioners are the accused in that case, so all these three applications are disposed of by this common judgment.

3. A brief fact giving rise to the case is that a written information was filed by the wife, opposite party no.2, alleging therein that her marriage was solemnized on 03.03.2010 with Sanjiv Kumar Yadav, petitioner of Cr. Misc. No.52052 of 2014, thereafter she started living in her matrimonial home but later on found that her husband was having in bad company and also liquor addict. It is alleged that mother-in-law took all her jewellerys on the pretext to safeguard the jewellerys from being stolen by thieves and her husband also had taken Rs.50,000/- from the informant. Further



allegation is that on 26.12.2010, her husband eloped with one Rani Kumari with the assistance of all accused persons and later on married with her. It is also alleged that mother-in-law and *Nanad* assaulted her.

4. Learned counsel appearing on behalf of the petitioners submits that from allegations itself as well as the materials collected during investigation, no *prima facie* case is made out under Sections 498A, 406 and 420 of the Indian Penal Code for the reason that there is no allegation of demanding dowry and torturing the informant in that connection. Learned counsel further submits that in fact due to second marriage done by her husband, all family members have been falsely implicated in the case as now a days there is general tendency to implicate all family members in case of matrimonial discord between husband and wife. It is also submitted on behalf of Rani Kumari, petitioner of Cr. Misc. No.826 of 2015, the so called second wife and Ram Kumari Devi and Rani Kumari @ Priti Rani, the mother-in-law and the *Nanad*, petitioners of Cr. Misc. No.1036 of 2015, that allegation against them do not make out any case under Section 498A of the Indian Penal Code or any other offences.

5. Contrary to this, the learned counsel appearing on behalf of the informant submits that there is specific allegation against all the accused persons and *prima facie* case is made out against them.



6. Having considered rival submissions of both sides and on perusal of the record, it appears that relationship between the wife and the husband is strained due to the second marriage done by the husband with one Rani Kumari, accused no.2, so during subsistence of marriage, the husband keeping illicit relationship with another woman tantamounts to mental cruelty to wife, so *prima facie* case under Section 498A of the Indian Penal Code is made out against the husband, Sanjiv Kumar Yadav, petitioner of Cr. Misc. No.52052 of 2014, so the criminal proceeding against him will proceed further.

7. As far as rest other petitioners, namely, Rani Kumari, the so called second wife of the husband, petitioner of Cr. Misc. No.826 of 2015, Ram Kumari Devi, the mother-in-law, and Rani Kumari @ Priti Rani, the *Nanad*, petitioners of Cr. Misc. No.1036 of 2015 are concerned, there is no specific allegation against them except reference of their names in casual manner so no *prima facie* case under Sections 498A or 406 and 420 of the Indian Penal Code is made out against them. Moreover the allegation of taking away the jewellerys and cash is also against the husband, Sanjiv Kumar Yadav. So the criminal proceeding against Rani Kumari and Ram Kumari Devi, mother-in-law, will be abuse of the process of the court, therefore, the entire criminal proceeding inclusive cognizance order dated 24.08.2012, passed by learned S.D.J.M., Madhepura in Murliganj P.S.



Case No.36 of 2011, only with respect to Rani Kumari, petitioner of Cr. Misc. No.826 of 2015, Ram Kumari Devi and Rani Kumari @ Priti Rani, petitioner of Cr. Misc. No.1036 of 2015 is hereby quashed. However, the criminal proceeding will continue against the husband, Sanjiv Kumar Yadav, petitioner of Cr. Misc. No.52052 of 2014.

8. In the result, Cr. Misc. No.52052 of 2014 stands dismissed whereas Cr. Misc. Nos. 826 of 2015 and 1036 of 2015 stands allowed.

(Arun Kumar, J.)

S.Kumar/-

AFR/NAFR	NAFR
CAV DATE	NA
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