

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.2845 of 2016

Arising Out of PS.Case No. -914 Year- 2014 Thana -GOPALGANJ COMPLAINT CASE District-
GOPALGANJ

- =====
1. Sita Kushwaha D/o Late Nakchhed Kushwaha, Resident of Village Natawa, P.S. Kateya, District - Gopalganj.
 2. Guddu Kushwaha @ Gudu Kumar Kushwaha, Son of Babulal Kushwaha, Resident of Village - Sapaha, P.S. - Gopalpur, District - Gopalganj.
 3. Raghav Kushwaha @ Raghav @ Gharbharan Kushwaha (Mama), Son of Late Bhagan Kushwaha, Resident of Village - Sangwadih Hata Tola, P.S. - Gopalpur, District - Gopalganj.
 4. Babulal Kushwaha, Son of Kamal Kushwaha, Resident of Village - Sapaha, P.S. - Gopalpur, District - Gopalganj.
 5. Sunil Kushwaha, Son of Babulal Kushwaha, Resident of Village - Sapaha, P.S. - Gopalpur, District - Gopalganj.
 6. Jhunni Devi, Wife of Guddu Kushwaha, Resident of Village Sapaha, P.S. - Gopalpur, District - Gopalganj.
 7. Panwa Devi, Wife of Babulal Kushwaha, Resident of Village - Sapaha, P.S. - Gopalpur, District - Gopalganj.

.... Petitioners

Versus

1. The State of Bihar.
2. Seema Devi, Wife of Upendra Kushwa, Daughter of Awadh Kishore Singh, Resident of Village Sapaha, P.S. - Gopalpur, District – Gopalganj at present Resident of Village Natwa, P.S. Kateya

.... Opposite Parties

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Appearance :

For the Petitioners	:	Mr. Naresh Prasad, Advocate
For the State	:	Mr. Amit Kumar Rakesh, APP
For O.P. No.2	:	Mr. S.K. Pandey, Advocate

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CORAM: HONOURABLE MR. JUSTICE ARUN KUMAR

ORAL JUDGMENT

Date: 30-08-2017

Heard learned counsel for the parties.

2. The petitioners by filing this application for quashing under Section 482 Cr.P.C. seeks setting aside of the criminal proceeding as well as cognizance order dated 20.01.2015, passed by Judicial Magistrate, Gopalganj in Complaint Case No.914 of 2014, whereby he has taken cognizance of the offence under Section 498A of the Indian Penal Code.

3. A brief fact, as stated in the complaint, by the complainant,



who is opposite party no.2 of this application, is that after her marriage solemnized in the year 2006 with Upendra Kushwaha, all accused persons started torturing her for realizing demand of a Hero Honda Motorcycle, Colour T.V. and Rs.50,000/- in cash; several times the accused persons made an attempt to kill her by setting her on fire, all accused persons assaulted her and keeping her belongings ousted from the matrimonial home.

4. Learned counsel for the petitioners submits that entire family member including distant relatives have been made accused in this case. Petitioners are the husband of the sister of mother-in-law, resident of another village, petitioner no.2 cousin of the complainant husband, petitioner no.3 the maternal uncle of the husband, petitioner no.4 the uncle of the husband, petitioner no.5 son of petitioner no.4, petitioner no.6 wife of petitioner no.2 and petitioner no.7 the wife of petitioner no.4. All these petitioners reside at separate place. Further submission is that there is no specific allegation against these petitioners, even during enquiry no specific material has come against these petitioners.

5. Contrary to the aforesaid submission, learned counsel appearing on behalf of opposite party no.2, the complainant, submits that during enquiry the witnesses have stated that all these accused persons tortured her in connection with further demand of dowry and all accused persons are named by the complainant and other enquiry witnesses.

6. Having considered rival submissions and on perusal of the facts alleged in the complaint and material transpired during enquiry, this



Court finds that the allegations against these petitioners and the material collected during enquiry are not specific rather allegations are general, no specific overt act having specific incident or date of occurrence is mentioned in the complaint. No specific accusation relating to torture, doing any specific act committed by the petitioners or any demand is alleged to be made by them. Moreover, petitioner nos.2 and 3, husband of the sister of the mother-in-law and another maternal uncles and their son have been made accused in this case, so the distant relations including cousins have been made accused only by making a casual reference of their names in the complaint, and in enquiry so prima facie no case under Section 498A of the Indian Penal Code is made out against these petitioners, so the entire criminal proceedings as well as the cognizance order dated 20.01.2015, passed by Judicial Magistrate, Gopalganj in Complaint Case No.914 of 2014 is quashed only with respect to these petitioners.

7. The petition stands allowed.

(Arun Kumar, J.)

S.Kumar/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	08.09.2017
Transmission Date	08.09.2017

