

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.27406 of 2014

Arising Out of PS.Case No. -133 Year- 2012 Thana -PURNIA COMPLAINT CASE District-
PURNIA

- =====
1. Shanti Devi Wife of Dinesh Rai
 2. Sanjita Devi Daughter of Dinesh Rai
 3. Dinesh Rai Son of Late Gaina Rai Resident of Village - Kanhaila Patol, P.S. - Barsoi (O.P. Sudhani), District - Katihar

.... Petitioner/s

Versus

1. The State of Bihar
2. Rajni Devi Daughter of Bejoy Rai Resident of Village - Jamira, P.S. - Baisi, District - Purnea

.... Opposite Party/s

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Appearance:

For the Petitioner/s : Mr. Nafisuzzoha, Advocate.

For the Opposite Party/s : Mr. Ashok Kumar, APP.

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CORAM: HONOURABLE MR. JUSTICE PRAKASH CHANDRA JAISWAL

ORAL JUDGMENT

Date: 26-07-2017

Heard learned counsel for the petitioners, learned counsel for the opposite party no.2 as well as learned APP for the State.

2. This application under Section 482 of the Code of Criminal Procedure has been filed for quashing the order dated 10.05.2013 passed by learned Sub-Divisional Judicial Magistrate, Purnea in Complaint Case No. 133 of 2012 whereby the learned Judicial Magistrate ordered to issue summon against the petitioners finding prima facie case under Section 498A of the Indian Penal Code and Section 4 of Dowry Prohibition Act against them.

3. It is submitted by learned counsel for the petitioners



that the petitioner nos.1, 2 and 3 happen to be the mother-in-law, sister-in-law and father-in-law respectively of the complainant. There is no specific allegation of making of dowry demand and subjecting the complainant to torture and cruelty for the said demand against the petitioners. Further allegation levelled against the petitioners is general and omnibus in nature. The petitioners have no concern with the affairs of the complainant and her husband. Petitioner no.3, namely, Dinesh Rai has filed a complaint case no. 3349 of 2011 under Sections 323, 379 and 504 of the Indian Penal Code against the complainant and her parents much earlier to this complaint case. The complainant has filed this false and frivolous case with ulterior motive to falsely implicate the petitioners in the case under hand due to filing of the aforesaid complaint case against her and no prima facie case is made out against the petitioners in the present case.

4. Learned APP vehemently opposed the aforesaid submission of the learned counsel for the petitioners submitting that the complainant in her solemn affirmation and the witnesses examined during the course of enquiry have supported the prosecution case. Hence, prima facie case is made out against the petitioners as well. It is further submitted that the petitioners have failed to point out any illegality and impropriety in the impugned order warranting quashing of the impugned order.



5. Heard learned counsel for the parties and perused the record.

6. From perusal of the complaint petition, it appears that the complaint petition was filed by the complainant against her in-laws including her husband with the allegation in succinct that her marriage was performed with the accused no.1 Kamal Rai and after that she went to her marital house. She was blessed with a female child out of the said wedlock. The accused persons made demand of a cow and she goat as dowry which was fulfilled by her father. The accused persons again started demanding a motorcycle and on failure to cough up the demand, they subjected the complainant to torture and left her at her maternal house and refused to take her back till the non-fulfillment of the aforesaid demand.

7. From perusal of the records, it appears that in buttress of her case, the complainant has examined herself on solemn affirmation and her three witnesses who have supported the complaint case. After perusing the complaint petition, solemn affirmation of the complainant and deposition of the witnesses, the learned Judicial Magistrate finding prima facie case under Section 498A of the Indian Penal Code and Section 4 of the Dowry Prohibition Act took cognizance of the offence against the accused persons including the petitioners.



8. From perusal of the record, it further appears that the case under hand is counterblast of the complaint case filed by the petitioner no.3 against the complainant and her parents much earlier. Moreover, the allegations levelled against the petitioner nos. 1, 2 and 3 who happen to be mother-in-law, sister-in-law and father-in-law respectively of the complainant are not specific rather omnibus and nothing has been cited by the complainant as to what motivated the petitioners to make dowry demand from the complainant.

9. Thus, I do not find any prima facie case against the petitioners and the order taking cognizance against these petitioners is an abuse of process of the court. Accordingly, this quashing petition is allowed and the order taking cognizance against these petitioners is quashed.

(Prakash Chandra Jaiswal, J)

Mishra/-

AFR/NAFR	N.A.F.R.
CAV DATE	N.A.
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