

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.13507 of 2014

Arising Out of PS.Case No. -289 Year- 2007 Thana -JEHANABAD COMPLAINT CASE District-JEHANABAD

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1. Ram Dayal Yadav S/o Shyam Narayan Yadav @ Sipahi Yadav @ Sipahi Mistri
 2. Shyam Narayan Yadav S/o Late Sohri Yadav
 3. Kalo Devi W/o Shyam Narayan Yadav
 4. Shiv Yadav S/o Shyam Narayan Yadav @ Sipahi Yadav @ Sipahi Mistri
 5. Ajay Yadav S/o Shyam Narayan Yadav @ Sipahi Yadav @ Sipahi Mistri
 6. Punam Devi W/o Jaybind Yadav
 7. Jaybind Yadav S/o Mungeshwar Yadav
- all Residents of Village Nadauna, P.S. Bhagwanganj, District Jehanabad at present at Masaruhi Purani Bazar, P.O. & P.S. Masaurhi, Near Devi Ashthan, Easter Side of House of Binda Yadav, District Patna.
8. Bhagmani Devi W/o Singhasan Yadav Resident of Village Soniyama, P.S. Dulhin Bazar, District Patna.

.... Petitioner/s

Versus

1. The State of Bihar.
2. Sabita Devi @ Sita Devi D/o Ram Saran Yadav Resident of Village Bansraj Bigha, P.O. Tehta, P.S. Makhdumpur, District Jehanabad.

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Sanjeev Kumar
Mr. S. Azeem
For the Opposite Party/s : Mr. Arvind Prasad Singh

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CORAM: HONOURABLE MR. JUSTICE SANJAY KUMAR

ORAL JUDGMENT

Date: 21-07-2017

This is an application under Section 482 of the Cr.P.C. for quashing the order dated 12.11.2007 passed by Sub-Divisional Judicial Magistrate, Jehanabad in Complaint Case no. 289 of 2007 whereunder cognizance for the offence under Sections 323, 498-A of the IPC and Section 4 of the Dowry Prohibition Act was taken.

2. Heard the learned counsels for the petitioners, O.P. no. 2 and



APP for the State.

3. The petitioner no. 1 is the husband and the petitioner nos. 2 to 8 are in-laws of the complainant (O.P. no. 2). The complainant filed a complaint case no. 289 of 2007 on the file of CJM alleging inter alia that after two years of her marriage, her husband and in-laws started torturing her as their demand of Rs. 20,000/- and a coloured T.V. was not fulfilled. The petitioner no. 1 at one occasion attempted to kill her by electrocuting. The husband and in-laws ousted the complainant and her female child and since then she along with her female child is residing at the place of her brother.

4. It has been submitted that the allegation of abusing, assaulting and snatching the belongings of the complainant is omnibus against the petitioners. The complainant is not willing to stay with the petitioners on account of her indulgence in extra marital life. The complainant has filed a Maintenance Case no. 14 of 2007 in the court of Principal Judge, Family court, Jehanabad and as per direction of the court, the petitioner no. 1 is paying the maintenance amount to the tune of Rs. 600/- per month. The learned Magistrate has passed the impugned order in mechanical way and so the same is fit to be quashed.

5. The learned APP, opposed the submissions.

6. On perusal of the complaint petition, impugned order and the



annexures, I find that the petitioner no.1 is husband and other petitioners are in-laws of the complainant. The informant has specifically alleged that her husband started torturing her after two years of her marriage. She has further stated that the petitioner no. 1 has started milk business near Beur Jail, Patna. The said business was started about four years ago. Her husband had attempted to electrocute her one year preceding to the filing of the complaint case which shows that the complainant was tortured by her husband while she was residing at the place of her husband. The allegation of torture and assault is specific against the petitioner no. 1. The learned Magistrate has rightly taken cognizance of offence under Sections 498-A, 323 of the I.P.C. and Section 4 of the D.P. Act against the husband. So far other petitioners are concerned, they are in-laws of the complainant residing at different places. They have denied any manner of concern with the complainant or her husband. The complainant lastly resided with her husband at the place of his milk business at Patna. In such circumstance, the criminal prosecution of petitioner nos. 2 to 8 appears to be abuse of process of Court.

7. In view of the above facts, the order dated 12.11.2007 taking cognizance under Sections 323, 498-A of the I.P.C. with respect to petitioner nos. 2 to 8 is quashed. So far petitioner no. 1 is concerned,



his prosecution will continue.

8. This Cr. Misc. application is, accordingly, disposed of.

(Sanjay Kumar, J)

rohit/-

AFR/NAFR	NAFR
CAV DATE	N.A.
Uploading Date	24.07.2017
Transmission Date	24.07.2017

