

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.21035 of 2013

Arising Out of PS.Case No. -556 Year- 2005 Thana -SIWAN COMPLAINT CASE District-
SIWAN

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1. Kumar Jyot Ashwani S/O Sri Anil Kumar Sinha Permanent R/O House
No. B-16, People'S Cooperative Colony, P.S.- Kankarbagh, P.O.- Lohia
Nagar, Patna-800020

2. Prem Deep Kumar Sinha S/O Late Ambastha Jagdeo Narayan Sinha R/O
'Manoram', (2nd Floor), Budha Colony, East Boring Canal Road, P.S. Shree
Krishna Puri, District Patna

.... Petitioner/s

Versus

1. The State Of Bihar

2. Sumit Sinha S/O Janardhan Prasad Sinha R/O Village-Hardia, P.S.
Barharia, District- Siwan

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Umesh Pd. Singh, Sr.Adv.

Mr. Abhimanyu Vatsa, Adv.

For the Opposite Party.2. : Mr.Sanjeev Nikesh Adv.

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CORAM: HONOURABLE MR. JUSTICE RAJENDRA KUMAR MISHRA
ORAL ORDER

7 01-05-2017

Heard learned counsel appearing for the petitioners,

learned counsel for opposite party no.2 and also learned A.P.P. for
the State.

2. The petitioners have invoked extra ordinary
jurisdiction under Section 482 Cr.P.C. to quash the order dated
02.07.2005 passed in Complaint Case No. C -556 of 2005/ Tr.
No. 3075 of 2015 by the learned Judicial Magistrate, 1st Class,
Siwan summoning the accused petitioners, on enquiry, under
Section 204 Cr.P.C. finding prima facie case under Sections
392/34 of the Indian Penal Code.

3. The fact of the case is that on 27.02.2005 the



informant along with other witnesses was going to his village. In the way near Kuwehi bridge both the petitioners armed with Katta and Knife surrounded him and snatched one golden chain worth Rs. 10,000/-, cash of Rs.1500/- and one Titan wrist watch and both the petitioners fled away from there giving threatening to them of dire consequence.

4. On filing complaint petition by the opposite party, on enquiry, under Section 202 Cr.P.C. finding prima facie case under Section 392/34 of the Indian Penal Code, the learned Judicial Magistrate.1st Class, Siwan, summoned the accused-petitioners through the impugned order..

5. Learned counsel appearing on behalf of the petitioners submits that Pooja Kumari, sister of petitioner no.1 filed Complaint Case no. 429 (C) of 2005 for the offence under Section 498(A) of the Indian Penal Code and Sections 3 / 4 of the Dowry Prohibition Act against her husband- Sanjeev Kumar, father-in-law, mother-in-law, brother-in-laws including the complainant (opposite party no.2) on 24.02.2005. On enquiry under Section 202 Cr.P.C., finding prima facie case u/s 498(A) IPC and 3 / 4 of Dowry Prohibition Act, the husband, father-in-law, mother-in-law, brother-in-laws including the petitioners were summoned on 17.03.20005. The complainant- opposite party of



the present case appeared in the said case on 19.04.2005 and thereafter only to give undue pressure filed the present Complaint Case no. C -556 of 2005 on 21.04.2005 regarding the occurrence dated 27.02.2005 without explanation of delay in filing the complaint. Petitioner no.1 is the brother of Pooja Kumari and petitioner no.2 is the neighbour of petitioner no.1 and both are the witnesses in Complaint Case no.429 (C)/2005. Further submission is that due to intervention of well wishers in Matrimonial Case No. 263 of 2005, filed by Pooja Kumari, sister of petitioner no.1 decree of divorce is passed on mutual consent and Complaint Case no. 429 (C)/2005 filed by the sister of petitioner no.1 is also disposed of.

6. Learned counsel appearing on behalf of opposite party no.2 conceded that Matrimonial Case No. 263 of 2005 filed by Pooja Kumari, sister of petitioner no.1 against her husband – Sanjeev Kumar is decreed on mutual consent and accordingly Complaint Case No. 429 (C) of 2005 filed by Pooja Kumari against her husband and in-laws including complainant opposite party no.2 of the present case has already been disposed of. The Complainant/opposite party no.2 does not want to proceed with the case further.

7. On going through the records it appears that Pooja



Kumari, sister of petitioner no.1 had filed Complaint Case No. 429 (C) of 2005 in which, on enquiry, her in-laws including the Complainant- opposite party no.2 were summoned on 17.03.2005 and complainant- opposite party no.2 appeared in that case on 19.04.2004 and thereafter he filed present Compliant Case no. C - 556/2005 on 21.04.2005 regarding the incident of 27.02.2005. As such it appears that the present complaint case is in counter blast to the Complaint Case No.429 (C) of 2005 filed by Pooja Kumari,sister of petitioner no.1 in which both the petitioners were the witnesses.

8. Having considered the facts and circumstances of the case and also the fact that the dispute has been settled between the parties, continuation of the proceeding in Complaint Case No. C -556/2005 in which the impugned order summoning the accused- petitioners has been passed appears to futile exercise.

9. In the result, this application is allowed and the impugned order dated 2.7.2005 passed in Complaint Case No. C - 556/2005 by the learned Judicial Magistrate, 1st Class, Siwan, summoning to the accused-petitioners is hereby quashed.

(Rajendra Kumar Mishra, J)

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