

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.33400 of 2013

Arising Out of PS.Case No. -860 Year- 2013 Thana -SIWAN COMPLAINT CASE District- SIWAN

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1. Kisto Saw S/O Late Laddoo Saw Resident Of P.O./Village Angwali, P.S. Petarwar, District Bokaro (Jharkhand).
 2. Subhdra Devi W/O Shri Kisto Saw Resident Of P.O./Village Angwali, P.S. Petarwar, District Bokaro (Jharkhand).
 3. Satish Kumar Verman S/O Shri Kisto Saw Resident Of P.O./Village Angwali, P.S. Petarwar, District Bokaro (Jharkhand).
 4. Smt. Prabha Devi W/O Shri Balram Saw Resident Of P.O./Village Angwali, P.S. Petarwar, District Bokaro (Jharkhand).
 5. Amit Kumar Verman S/O Shri Kisto Saw Resident Of P.O./Village Angwali, P.S. Petarwar, District Bokaro (Jharkhand).
 6. Shri Ajay Prakash Verman S/O Shri Parmeshwar Verman R/O Mohalla Naya Sarai, P.O. Dhurwa, P.S. Jagannathpur, District Ranchi (Jharkhand).

.... Petitioner/s

Versus

1. The State Of Bihar.

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Sanjeev Kumar

For the Opposite Party/s : Mr. Mayanand Jha(App)

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CORAM: HONOURABLE MR. JUSTICE VINOD KUMAR SINHA
ORAL ORDER

5 16-01-2017 The petitioner has challenged order dated 15.5.2013 passed by the Sub-Divisional Judicial Magistrate, Siwan in Complaint Case No.860 of 2013, by which after enquiry, processes were issued against the petitioners for an offence under Section 498A, 406 and 323 of the IPC and 4 Dowry Prohibition Act.

The prosecution story in short is that Opposite Party No.2 filed Complaint Case No.860 of 2013 on 25.4.2013 before the



learned C.J.M., Siwan but later on it was transferred to the Sub-divisional Judicial Magistrate, Siwan for enquiry and further proceeding and the S.D.J.M., Siwan after examining the complainant and enquiry of witnesses under Section 202 of Cr.P.C. finding prima facie case under Sections 498A, 406, 323 of the I.P.C. and Section 4 of Dowry Prohibition Act, vide order dated 15.5.2013 ordered for issuance of processes.

The complainant had alleged that his daughter was married with Umesh Kumar Verman on 27.4.1996 but the family members of her Sasural started demanding dowry and started torturing his daughter. In the meantime, two children were born first on 9.4.1997 and second on 10.4.2002 at Siwan. Her husband died on 1.6.2012 due to a car accident, thereafter the accused persons started calling 'Dian' (Witch) and further demanded Rs.05 lakh. It is also case of the complainant that his daughter anyhow came to her 'Maika'. Further case of the complainant is that he admitted her sons in D.A.V., Alok Public School, Pundog and he was paying their fees but without their permission, accused persons took them to their house. It is also case of complainant that accused persons (Petitioners No.3, 5 & 6) entered into his house at Siwan



and tried to obtain her signature on blank paper and on 'hullah', they escaped, snatching the chain and boy containing cash of Rs.25,000/-.

After enquiry, the Sub-Divisional Judicial Magistrate, Siwan finding prima facie the case true under Sections 498A, 406 and 323 of the IPC and 4 Dowry Prohibition Act, ordered for issuance of processes against the petitioners, vide order dated 15.5.2013 passed in Complaint Case No.860 of 2013. Now the order issuing processes is under challenge before this Court, in the present application.

It is submitted on behalf of the petitioner that the whole allegation of torture or harassment to the daughter-in-law of the petitioner no.1 relates to Patarwar (Jharkhand) but to make jurisdiction of Siwan court. It has been alleged in the last paragraph of the complaint petition that the accused persons went to her Sasural and tried to take her signature on the papers and snatched chain and boy containing Rs.25,000/- and they have threatened the daughter of the complainant. It is also submitted that admittedly the husband of daughter of complainant already died and the whole allegation has been made only with a mala



fide purpose of harassing the petitioners and no specific allegation has been attributed against the petitioners. However, the learned court below without appreciating that Siwan court has no jurisdiction, had issued processes against the petitioners in a mechanical manner. It has also been submitted that now complainant and his daughter both died.

Heard learned A.P.P. as well as the learned counsel for the opposite party no.2 And the learned Opposite party has also admitted that the complainant has already died and the daughter of the complainant, who was daughter-in-law of the petitioner no.1 also died.

In the present case, the petitioners have raised jurisdictional point and from perusal of the complaint petition, it also appears that some part of occurrence is of at Petarwar (Jharkhand). Further as noticed, now both the complainant and her daughter died.

From perusal of the record and the impugned order, it appears that order issuing processes has been passed against the petitioners and the learned Sub-divisional Judicial Magistrate without considering whether he has jurisdiction to issue



processes against the petitioners and without specifically mentioning as to what were materials available against each of the accused persons and also without considering the fact that the complainant has died and the daughter of the complaint also died, as has also been informed by the learned counsel for the Opposite Party No.2.

In the aforesaid view of the matter, I think it proper to quash order dated 15.05.2013 passed by the Sub-divisional Judicial Magistrate, Siwan and remit back the case to the court below, to consider jurisdictional point as well as as to what are the materials specifically attributed against each petitioner and the fact that now the complainant and the daughter of the complainant have died and what will be effect of continuing this proceeding.

With this observation, this application is allowed and the matter is remitted back to the learned Sub-divisional Judicial Magistrate, Siwan for considering afresh, who will pass reasoned order in the matter.

(Vinod Kumar Sinha, J)

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