

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.35579 of 2013

Arising Out of PS.Case No. -162 Year- 2012 Thana -PARSABAZAR District- PATNA

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1. Suresh Prasad Singh S/O Late Ram Jatan Singh Resident Of Village Akauna, P.S. Punpun, District Patna.
2. Manoj Kumar Singh S/O Suresh Singh Resident Of Village Akauna, P.S. Punpun, District Patna.
3. Minta Devi W/O Manoj Kumar Singh Resident Of Village Akauna, P.S. Punpun, District Patna.
4. Sudhir Kumar Singh @ Rinku Singh S/O Suresh Singh Resident Of Village Akauna, P.S. Punpun, District Patna.
5. Sarita Devi W/O Rinku Kumar Singh Resident Of Village Akauna, P.S. Punpun, District Patna.

.... Petitioner/s

Versus

1. The State Of Bihar.
2. Radha Devi W/O Dilip Kumar Singh @ Guriya Resident Of Kurthaul Behind Ravi Singh Market, P.S. Parsa Bazar, District Patna.

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Bhaskar Shankar

For the Opposite Party/s : Mr. Kanhaiya Kishor (App)

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CORAM: HONOURABLE MR. JUSTICE VINOD KUMAR SINHA
ORAL ORDER

3 16-01-2017 Heard the parties.

By way of the present application preferred under Section 482 of the Code of Criminal Procedure, the petitioners seek quashing of the order 15.04.2013 passed in Parsa Bazar P.S. Case No. 162 of 2012 by learned Chief Judicial Magistrate – Patna, whereby he has taken cognizance under Section 498A of the Indian Penal Code against the petitioners.

Prosecution story in short is that the informant filed a written report 21.11.2012 stating therein that her marriage was



solemnized with one Dilip Kumar (accused) on 05.05.2009 as per Hindu rights and rituals. Soon after the marriage the accused persons started demanding two lakh rupees and a four wheeler as dowry from informant. The informant conveyed these demand to her parents but they showed their inability to fulfill the said demand of the accused persons. On refusal of the said demand the accused persons started torturing the informant both physically and mentally due to which the informant left her matrimonial house and came to the house of her parents.

On the basis of the aforesaid allegation, Parsa Bazar P.s. Case No. 162 of 2012, came to be registered against the petitioners and police after investigation submitted charge-sheet only against the husband of the informant, namely, Dilip Kumar, whereas, the case against other accused persons was not found true and final form was submitted. However, learned Court below differing with the final form took cognizance against all the accused persons including these petitioners vide order, dated 15.04.2013 passed in Parsa Bazar P.S. Case No. 162 of 2012, and the aforesaid order is under challenge in the present application.

It has been submitted on behalf of the petitioners that petitioner no. 1 is the father in law, petitioner no. 2 is the brother in law, petitioner no.3 is the Gotni, petitioner no. 4 is devar and



petitioner no. 5 is also the gotni of the informant and police after investigation submitted final form against these petitioners finding the case not true and learned Magistrate without assigning any reasons for differing with the final form submitted by the police, has taken cognizance against all the accused persons and that too in a very mechanical manner. It has further been submitted that in spite of the fact that the parties have already compromised the matter and now the informant is living happily with her husband, the case is lingering, which is clearly an abuse of process of law.

Learned counsel appearing on behalf of opposite party no. 2 could not deny the said fact that the informant is now living with her husband.

Having heard both sides, from perusal of the record, it appears that police after investigation submitted final form not finding the case true against the petitioners but in spite of that cognizance has been taken against the petitioners. Further from perusal of the impugned order, I do not find that learned Court below in its order, has not assigned any reason for differing with the said final form and passed the order taking cognizance against the petitioners in a mechanical manner.

In view of the above, the order, dated 15.04.2013 passed in Parsa Bazar P.S. Case No. 162 of 2012 by learned Chief



Judicial Magistrate – Patna, to the extent of taking cognizance against the petitioners is not sustainable.

Accordingly, the present application is allowed, order dated 15.04.2013 passed in Parsa Bazar P.S. Case No. 162 of 2012 by learned Chief Judicial Magistrate – Patna, to the extent cognizance taken against the petitioner, is hereby quashed.

(Vinod Kumar Sinha, J)

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