

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.15348 of 2016

Arising Out of PS.Case No. -629 Year- 2011 Thana -WEST CHAMPARAN COMPLAINT District-
WESTCHAMPARAN(BETTIAH)

- =====
1. Jitendra Prasad @ Jitendra Kumar Barnwal son of Lalbabu Prasad Barnwal
 2. Lalbabu Prasad Barnwal @ Lalbabu Prasad son of late Durga Prasad
 3. Indrawati Devi @ Umyawati Devi Wife of Lalbabu Prasad Barnwal
 4. Upendra Prasad Barnwal @ Upendra Kumar son of Lalbabu Prasad Barnwal
 5. Ranjit Kumar son of Lalbabu Prasad Barnwal All are residents of village - Ghogha Parsauni, P.S. - Balthar, Dist - West Champaran.

.... Petitioners

Versus

1. The State of Bihar.
2. Shobha Devi Daughter of Ramji Prasad Barnwal resident of village - Jamadar Tola Barwa, P.O. - Siswa Basatpur, P.S. - Chautarba, Dist - West Champaran.

.... Opposite Party

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Appearance :

For the Petitioners : Mr. Rajendra Prasad
Mr. Ram Pravesh Kumar
For the State : Mr. C. Jawahar (App)

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CORAM: HONOURABLE MR. JUSTICE ARUN KUMAR
ORAL ORDER

8 01-11-2017 Heard learned Counsel for the petitioners as well as the learned Counsel for the State.

The petitioners by filing this application under Section 482 of the Code of Criminal Procedure seek quashing of the cognizance order dated 2.4.2013 passed by the SDJM Bettiah, West Champaran in Complaint Case No. 629(C) of 2011 whereby the learned Magistrate has taken cognizance of the offence under Section 498A of the IPC and Section 4 of the Dowry Prohibition Act and issued summons against the petitioners to stand trial in the case.

The short fact giving rise to the case is that the complainant was married with petitioner No. 1 Jitendra Prasad @



Jitendra Kumar Barnwal on 1st February 2010. The complainant after marriage came to the matrimonial home. Then all the accused persons asked the complainant to bring Rs. 75,000/- cash, color T.V. and Washing Machine from her father because after promising such articles he has failed to give the same at the time of marriage. They started committing torture by not giving her food and misbehaved with her. There is allegation that the husband, petitioner No. 1, along with petitioners 4 and 5 used to assault her by fists and slaps and in order to make defence the husband filed Matrimonial Case No. 16 of 2011 for restitution of conjugal rights and she was not taken back by the accused persons after ousting her from the matrimonial home.

Learned Counsel appearing on behalf of the petitioners submits that petitioner Nos. 2 and 3 are father-in-law and mother-in-law whereas petitioner No. 4 is brother of the husband. The husband has also filed Matrimonial Case No. 16 of 2011 seeking restitution of his conjugal rights and the complainant has also filed a maintenance case against him and in fact she is not intending to live with her husband. It is submitted that there is oral partition between the brothers in the year 2009 and they are living separately. Learned Counsel for the petitioners further submitted that in the Family Court a compromise was also filed by both sides but despite that the complainant is not living with her husband.



Contrary to that learned Counsel for the State submits that there is sufficient allegation against all the accused persons and within a year of marriage the complainant was ousted from the matrimonial home.

No one appears on behalf of Opposite party No. 2.

Having considered the rival submissions and on perusal of the record it appears that the allegation is specific against all the accused persons and the case was filed just after expiry of one year of the marriage. So it is not the case that there is absence of allegation against these petitioners. There is also specific allegation and material against petitioner Nos. 1, 4 and 5 that they used to misbehave and assault her with fists and slaps doing cruelty for realizing further dowry.

So finding no ground for interference with the cognizance order the application stands dismissed.

(Arun Kumar, J)

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