

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.30400 of 2014

Arising Out of PS.Case No. -822 Year- 2012 Thana -SITAMARHI COMPLAINT CASE District-
SITAMARHI

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1. Ram Vilash Singh S/o Late Ram Surat Singh
2. Anaria Devi W/o Ram Vilash Singh
Both residents of village- Majhauria, Tola Dhodhna, P.S.- Dumra, District-
Sitamarhi

.... Petitioner/s

Versus

1. The State of Bihar
2. Punita Devi W/o Mahesh Singh presently residing with her father Ram Rekha
Singh, resident of village- Bhaluaha, P.S.- Bathnaha, District- Sitamarhi

.... Opposite Party/s

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Appearance :

For the Petitioner/s	:	Mr. Ashhar Mustaja Mr. Ashish Kumar Ranjan
For the Informant	:	Mr. Virendra Kumar
For the State	:	Mr. Humayu Ahmad Khan, APP

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CORAM: HONOURABLE MR. JUSTICE SANJAY KUMAR

ORAL JUDGMENT

Date: 06-10-2017

This application under Section 482 of the Code of Criminal Procedure has been filed to quash the order dated 10.10.2012 passed by the learned S.D.J.M Sadar, Sitamarhi in Trial No. 3402 of 2012 arising out of Complaint Case No. 822 of 2012 whereby and whereunder the learned Magistrate took cognizance for the offence under Section 498-A of the Indian Penal Code against the petitioners.

2. Heard the learned counsel for the petitioner, the learned counsel for the informant and the learned APP for the State.

3. On perusal of documents on record, I find that the



petitioners are parents-in-laws of the Opposite Party No. 2 and the allegation is that they used to torture the complainant in connection with demand of a Hero Honda motorcycle and a buffalo. The allegation of demand and torture appears omnibus against these petitioners. The complainant in her S.A. has stated that her husband used to assault her. The marriage of the complainant took place on 29.05.2005 and from the said wedlock, she has two children. Besides the complainant, the two other enquiry witnesses who are sister and father's brother-in-law have not stated any specific act of torture against the petitioners. The main allegation appears against the husband.

4. In this regard, I would like to refer the cases of Neelu Chopra Vs. Bharti (2009)10, SCC 184. Geeta Mehrotra and others Vs. State of UP & others (2012)10 SCC page 741, 2013(2) PCCR 210 (S.C.) and Preeti Gupta & others Vs. State of Jharkhand & others (2010) 7, SCC page 667 wherein the Hon'ble Apex Court has reiterated that in absence of specific allegation and prima facie case against co-accuseds, the order taking cognizance will be bad in law and that will be an abuse of process of court.

Considering the omnibus allegation against the petitioners in the complaint petition as well as in the statement of enquiry witnesses and also the laws laid down by the Hon'ble Apex



Court, the criminal prosecution of these two petitioners, who are in-laws of the complainant appears to be an abuse of process of Court.

5. In the facts and circumstances of the case, this application is allowed and the cognizance order with respect to these petitioners only and their criminal prosecution is hereby quashed. The criminal prosecution of the husband will however continue.

(Sanjay Kumar, J)

ajay gupta/-

AFR/NAFR	NAFR
CAV DATE	NA
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