

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.40625 of 2013

Arising Out of PS.Case No. -708 Year- 2012 Thana -PATNA COMPLAINT CASE District-
PATNA

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1. Md. Soheluddin Son Of Md. Kalimuddin Resident Of Village - Maniyamore,
P.S.- Naugachia, District- Bhagalpur

2. Md. Kalimuddin Son Of Late Md. Panchu Resident Of Village - Maniyamore,
P.S.- Naugachia, District- Bhagalpur

3. Akhtari Bano Daughter Of Md. KJalimuddin Resident Of Village - Maniyamore,
P.S.- Naugachia, District- Bhagalpur

4. Dezy @ Sagupta Pravin Daughter Of Md. Kalimuddin Resident Of Village -
Maniyamore, P.S.- Naugachia, District- Bhagalpur

.... Petitioners

Versus

1. The State Of Bihar

2. Anisha Pravin Daughter Of Md. Hyder Wife Of Md. Soheluddin Resident Of
Village + P.O.- Chondi, P.S.- Barh, District- Patna

.... Opposite Parties

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Appearance :

For the Petitioners : Mr. Amrendra Kumar, Advocate

For the State : Mr. Shailendra Kumar Singh, A.P.P.

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CORAM: HONOURABLE MR. JUSTICE ARUN KUMAR

ORAL JUDGMENT

Date: 26-07-2017

This application has been filed by petitioners under
Section 482 of the Code of Criminal Procedure, 1973 challenging
order dated 25.4.2013 passed by S.D.J.M., Barh (Patna) in Complaint
Case No.708(c) of 2012 whereby he has taken cognizance of the
offence under Section 498(A) of the Indian Penal Code as well as
under Section 3/4 of Dowry Prohibition Act.

2. The complainant's case in brief is that she came to her
matrimonial home after marriage held on 22.4.2010. All family



members treated her well during first eight months of marriage but after delivery of a girl child they started making demand of Rs.50,000/- and other items and tortured her in that connection ultimately, she was ousted from the matrimonial home left with no option she returned back to her parents home on 2.2.2012. On 3.10.2012, her husband came to her parent home and also assaulted.

3. Learned counsel appearing on behalf of the petitioners submits that in fact wife had divorced her husband on 12.7.2012 prior to lodging of this complaint case. Moreover, the petitioner nos.3 and 4 are unmarried Nanads and there is no specific allegation against them.

4. Learned Additional Public Prosecutor supports the cognizance order.

5. Having considered rival submissions and on perusal of record, it appears that allegations of demand of dowry and torture in that connection made in the complaint is not specific against father-in-law and two unmarried Nanads. There is also general allegation of torture and demand against petitioners except Md. Soheluddin the husband of the complainant.

6. In view of absence of any specific allegation against petitioner nos.2 to 4, finding no material for taking cognizance against them, therefore, the cognizance order dated 25.4.2013 in Complaint



Case No.708(c) of 2012 passed by S.D.J.M., Barh, Patna with respect to petitioner no.2 Md. Kalimuddin, father-in-law and petitioner nos.2 and 3 Akhtari Bano and Dezy @ Sagupta Pravin, sister-in-laws are set aside.

7. However, as far as petitioner no.1 Md. Soheluddin husband of the complainant is concerned, the allegation is specific only against him. The submission of the learned counsel that prior to the filing of the complaint the wife had divorced is disputed question of fact which can only be ascertained in the trial, therefore, finding no ground for interfering with the cognizance order dated 25.4.2013 in Complaint Case No.708(c) of 2012 taking against Md. Soheluddin husband of the complainant concerned there is no illegality and he will be put on trial in accordance with law. Therefore, his prayer of setting aside the cognizance order is dismissed.

(Arun Kumar, J)

N.H./-

AFR/NAFR	NAFR
CAV DATE	N/A
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