

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.30244 of 2012

Arising Out of PS.Case No. -697 Year- 2012 Thana -null District- PATNA

- =====
1. Dinesh Patel S/O Ramekbal Patel R/O Village - Hajipur Rambhadra, Devi Asthan, P.S. Hajipur, Distt. - Vaishali
 2. Ramekbal Patel S/O Charitra Patel R/O Village - Hajipur Rambhadra, Devi Asthan, P.S. Hajipur, Distt. - Vaishali
 3. Munia Devi W/O Ramekbal Patel R/O Village - Hajipur Rambhadra, Devi Asthan, P.S. Hajipur, Distt. - Vaishali

.... Petitioners

Versus

1. The State Of Bihar
2. Rani Patel W/O Dinesh Patel, D/O Bindeshwar Singh R/O Vill. - Madarna, P.S. & Distt. Hajipur At Present New Jaganpura, P.S. Ramkrishna Nagar, Distt. - Patna

.... Opposite Parties

=====

Appearance :

For the Petitioner/s : Mr. Shivendra Kumar Sinha, Advocate
For the complainant : Mr. Santosh Kumar Deepak, Advocate
For the Opposite Party/s : Mr. Akhileshwar Dayal, APP

=====

CORAM: HONOURABLE MR. JUSTICE SANJAY KUMAR

ORAL JUDGMENT

Date: 26-04-2017

Heard the counsel for the petitioners, the counsel for the complainant (Opposite Party No. 2) and the learned APP for the State.

2. The petitioners seek quashing of order dated 02.07.2012 passed by the learned Sub-Divisional Judicial Magistrate, Patna in complaint case No. 697 (C) of 2012, whereunder the court below finding prima facie case for the offences under Section 498A of the Indian Penal Code and Section 4 of the Dowry Prohibition Act



ordered for issuance of summons against the present petitioners.

3. The complainant (Opposite Party No. 2) filed a complaint case on the file of Chief Judicial Magistrate against the petitioners and two others, alleging inter alia that after marriage, which took place on 09.05.1997. She came at her matrimonial place where the petitioners, who are husband and parents-in-laws started torturing her in connection with demand of Rs. 50,000/- in cash and a colour T.V. The complainant and her witnesses at the time of enquiry supported the allegation of torture and the court below considering the materials available on record passed the impugned order.

4. The counsel for the petitioners submits that the marriage took place in the year 1997 and from the said wedlock, the complainant got two children who are aged about 10 years and 7 years respectively. The complainant has some relationship with one Pawan Kumar and she voluntarily left the house of the petitioners and started residing with Pawan Kumar leaving her two children at the mercy of these petitioners. The said Pawan Kumar and one Pappu Kumar have been examined by the complainant. They are strangers to the family of the petitioners having their residence at different place at Patna. It was further submitted that



there is absolutely nothing against the petitioners so as to order for issuance of summons. It was also submitted that the complainant (Opposite Party No. 2) has entered into compromise on 04.08.2014 and since then she is residing with the petitioners in the light of undertaking and assurance given by the petitioners to keep the complainant with full honour and dignity.

5. Learned counsel for the Opposite Party No. 2 as well as the learned APP for the State opposed the submissions made on behalf of the petitioners.

6. On perusal of the Lower Court Records (LCR), I find that the marriage of the complainant took place on 09.05.1997. She has alleged cruelty against the petitioners since 25.09.2009, on which date, she was allegedly assaulted at her matrimonial place. The occurrence allegedly took place in her matrimonial house, but not a single witness has been examined from the locality of her matrimonial place. None of the relative of the complainant has come forward to support her case of cruelty. The witness A.W.-1 (Pappu Kumar) is aged about 25 years and he was examined on 28th May, 2012, wherein he has stated that he knows the complainant since last one year. He has not stated about any acquaintance with any of the petitioners. A.W.-2 (Pawan Kumar) is



aged about 20 years, who is one of the tutor in the coaching institute run by the complainant. Both the witnesses are resident of different place located at Patna. The allegation of torture also appears omnibus.

7. In view of above, I find that continuance of prosecution against the petitioners would amount to abuse of process of the Court.

8. Accordingly, the order dated 02.07.2012 is set aside and the petition is allowed.

(Sanjay Kumar, J)

ajaypd./-

AFR/NAFR	NAFR
CAV DATE	N/A
Uploading Date	28.04.2017
Transmission Date	28.04.2017

