

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.41506 of 2014

Arising Out of PS.Case No. -1483 Year- 2012 Thana -PATNA COMPLAINT CASE District-
PATNA

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1. Rakesh Srivastava @ Ritesh Srivastava Son of Shri Nag Narayan Srivastava.
2. Nag Narayan Srivastava Son of Late Thakur Prasad Srivastava.
3. Smt. Chandrawati Devi W/o Shri Nag Narayan Srivastava.
4. Uma Shankar Srivastava S/o Shri Nag Narayan Srivastava.
5. Sanjay Srivastava S/o Shri Nag Narayan Srivastava.
6. Munna Srivastava S/o Shri Nag Narayan Srivastava.
7. Pamila Devi W/o late Maha Shankar Srivastava,
8. Anita Srivastava W/o Shri Papu Srivastava
All are Resident of Village-Mathiya, P.S.-Chhatauni, District-Motihari, East
Champaran.

.... Petitioner/s

Versus

1. The State of Bihar
2. Smt. Punita Srivastava W/o Shri Rakesh Srivastava @ Ritesh, Resident of
Village-Mathiya Dih, P.S.-Chhatauni, P.O.-Motihari, District-East Champaran at
present residing in the mohalla-Bindeshwari Nagar, Patliputra Colony, Polytechnic
More, P.O.+P.S.-Patliputra, District-Patna.

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Shri Prakash Srivastava, Adv.
Miss Anu Priyadarshni, Adv.

For the Opposite Party no.1 : Mr. Nagendra Prasad, APP

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CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD

ORAL JUDGMENT

Date: 09-10-2017

Heard learned counsel for the petitioners and learned
APP for the State. Although the opposite party no.2 has entered
appearance and the name of the learned counsel representing the
opposite party no.2 is appearing on the daily cause list, but she has not
appeared to oppose the present application.

The petitioners are seeking quashing of the order dated
24.09.2012 passed in Complaint Case No.1483(C) of 2012 by the



learned S.D.J.M., Patna who has taken cognizance of the offences under Section 498A of the Indian Penal Code read with Section 4 of the Dowry Prohibition Act and decided to issue summons against the present petitioners.

The grievance of the learned counsel representing the petitioners is that by filing a malicious kind of prosecution the complainant-opposite party no.2 has falsely implicated the entire family of the husband. Learned counsel points out that during the pendency of the present application, the petitioner no.2 Nag Narayan Shrivastava, who was an old man and happened to be the father-in-law of the complainant, has already died. He would further submit that the petitioner no.3 is the mother-in-law, petitioner no.4 is the elder brother of the husband (petitioner no.1) and petitioner nos.5 and 6 are younger brothers of the husband, petitioner no.7 is the widow of one of the elder brothers of the husband and the petitioner no.8 is the married sister of the husband of the complainant. Marriage of the complainant was solemnized with petitioner no.1 in the year 2009, but because of some matrimonial discord the complainant-opposite party no.2 was not staying with her husband who is working at Ghaziabad in the State of U.P. The complainant –opposite party no.2 lodged the present complaint implicating the entire family members only because they happen to be the kith and kin of the husband. Submission of the



learned counsel is that a bare perusal of the complaint petition would show that there is a general and omnibus allegation of demand of a sum of Rs.50,000/- and one motorcycle for which allegedly the complainant was abused and not given food by all the accused persons.

Learned counsel submits that this Court can take judicial notice of the fact that implication is that of the old age mother-in-law of the complainant and the elder and younger brothers, married sister and widow of the elder brother of the husband of the complainant who are separate in mess and business and are even residing separately at their own working place. In paragraph 6 of the petition it is specifically stated about places where the petitioner nos.2 to 8 are residing (now petitioner no.2 is dead).

Although the opposite party no.2 has entered appearance, but the statements made in the petition regarding petitioner nos.2 to 8, their status and place of residence separately have not been denied. These are the uncontroverted statements which the Court can rely upon.

This Court has perused the complaint petition and the deposition of the witnesses which are available on the record. A perusal of the complaint gives an impression to this Court that the allegations against all the family members are superfluous in nature



and ornamental allegations only stating vaguely the allegations of abuse and torture etc. The allegations are not even substantiated from any corroborative materials in course of enquiry. Considering the nature of relationship of the petitioner nos. 3 to 8, this Court is of the view that their prosecution because of the matrimonial discord between the petitioner no.1 and his wife (opposite party no.2) is only an abuse of the process of the Court. This Court is of the view that the petitioner nos.3 to 8 who are brothers, mother, widow of the elder brothers and married sister of petitioner no.1 would only be harassed if the prosecution is allowed to continue against them. Therefore, it would be in the interest of justice to quash the order taking cognizance and issuance of summons so far as it relates to the petitioner nos.3 to 8 in the present case. The order issuing summons against the petitioner no.1 is not interfered with and the application is allowed only in respect of petitioner nos.3 to 8. The order taking cognizance stands quashed in their respect.

The application is allowed to the extent indicated above.

(Rajeev Ranjan Prasad, J)

Arvind/-

AFR/NAFR	
CAV DATE	
Uploading Date	10.10.2017
Transmission Date	10.10.2017

