

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.47040 of 2014

Arising Out of PS. Case No.-1 Year-2007 Thana- COMPLAINT CASE District- Purnia

1. Odud Marar son of Late Haji Ismail
2. Samsul Haque son of Shri Odud Marar
3. Bibi Sakila wife of Md. Suleman @ Kalua
4. Hamesha Khatoon wife of Odud Marar All are resident of village - Lalpur Goth, P.S. Birpur, District - Supaul

... .. Petitioner/s

Versus

Bibi Noorjahan Khatoon wife of Md. Suleman resident of village - Lalpur Goth, P.O. Belbhadrapur, P.S. Birpur, District - Supaul at present C/o Md. Kabatullah (brother) at Lalpur, P.O. Balbhadrapur, P.S. Birpur, District - Supaul

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. Amrit Abhijat, Adv & Mr. Manoj Kumar Gupta, Adv
For the Opposite party	:	Mr. Arun, Adv

CORAM: HONOURABLE MR. JUSTICE S. KUMAR

ORAL JUDGMENT

Date : 13-12-2017

Heard learned counsel for the petitioners and learned counsel for the complainant-opposite party.

This petition under Section 482 of the Cr.P.C has been filed for quashing the order dated 02.06.2009, passed by learned Sub Divisional Judicial Magistrate, Birpur, Supaul, taking cognizance of the offence under Section 498A of the IPC and Section 4 of the Dowry Prohibition Act, 1987 in Complaint Case No. 1C of 2007 against the petitioners.

Briefly stated the facts of the case is that complainant-opposite party no. 2 Bibi Noorjahan Khatoon filed



a complaint case before the Sub Divisional Judicial Magistrate, Birpur, Supaul, stating therein that her father had died and her brother got her married with Md. Suleman (not petitioner in this case) on 20.11.2006, according to muslim law of marriage. At the time of marriage, brother of complainant-opposite party gave gift of jewellery with household articles but after six months of her marriage, demand of Rs. 20,000/- was made by her husband but on account of non fulfillment of said demand she was being tortured and assaulted and thereafter she was driven out of the matrimonial home.

The complainant-opposite party was examined on S.A. by the court below and in support of her complaint case, three witnesses were also examined by the court below and on the basis of S.A. of complainant-opposite party and enquiry witnesses, the court below found *prima facie* case to be made out against the accused-petitioners and took cognizance of the offence under Section 498A of the IPC and Section 4 of Dowry Prohibition Act and issued summons for their appearance to face the trial.

Petitioner no. 3 Bibi Sakila is the first wife of accused-husband Md. Suleman. Petitioner no. 1 Odud Marar is the Father-in-Law, petitioner no. 2 Samsul Haque is the Brother-



in-Law, and petitioner no. 4 Hamesh Khatoon is the Mother-in-Law of complainant-Opposite party.

After hearing learned counsel for the petitioners and learned counsel for the complainant-opposite party and going through the contents of the complaint petition, this Court finds that there is no allegation of any specific overt act against the petitioners. The allegation of specific overt act and demand of dowry is against the accused-husband Md. Suleman. The allegation against the petitioners are general and omnibus in nature.

Considering the facts and circumstances of the present case, the order taking cognizance dated 02.06.2009 against the petitioners is hereby quashed.

The petition stands allowed.

(S. Kumar, J)

ranjan/-

AFR/NAFR	NAFR
CAV DATE	N.A.
Uploading Date	18.12.2017
Transmission Date	18.12.2017

