

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.7231 of 2013

Arising Out of PS.Case No. -1824 Year- 2010 Thana -PURNIA COMPLAINT CASE District- Purnea

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1. Guddi Devi @ Lali Devi W/O Rajaram Sah, D/O Shankar Kapar Resident Of Village- Khaira Chanda, Police Station- Narpatganj, District- Araria
 2. Shankar Kapar S/O Late Soti Lal Kapar Resident Of Village- Khaira Chanda, Police Station- Narpatganj, District- Araria
 3. Mahesh Kapar S/O Shankar Kapar Resident Of Village- Khaira Chanda, Police Station- Narpatganj, District- Araria

.... Petitioner/s

Versus

1. The State Of Bihar
2. Rajaram Sah @ Rajesh Kumar S/O Sant Lal Sah Resident Of Village- Mahalbari Tola Male Bitta, Police Staiton- Dagarua, District- Purnea

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Mukesh Kumar Rana

For the Opposite Party/s : None

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CORAM: HONOURABLE MR. JUSTICE KISHORE KUMAR MANDAL
ORAL JUDGMENT
Date: 20-04-2017

Heard the Counsel for the petitioner. No one has appeared on behalf of O.P. No. 2 in spite of notices.

The petitioners are the wife, father-in-law and brother-in-law of the complainant (O.P. No. 2). They have assailed the order dated 30.08.2012 passed by the Sub-Divisional Judicial Magistrate, Purnea in Complaint Case No. 1824 of 2010 wherein after enquiry into the complaint lodged by the O.P. No. 2, cognizance under Section 379/34 of the Indian Penal Code has been taken.

The case of the complainant, in brief, is that he was married with petitioner no. 1 whereafter she came to the sasural and



lived with him. His wife later came to know about his ailment and started quarreling with him. At times, she used to leave the home and go to *Naihar*. In June, 2009, his wife left the matrimonial home and started living in *Naihar*. The complainant went there and tried to take her back which she refused. Again, he went to Sasural to take his wife back and brought her to the Sasural on 25.5.2010. On 30.5.2010, the accuseds came to his house and stayed overnight. In the morning when he was away from house, she left the house along with cash of Rs. 5,000/-, 20 bhar silver and 04 bhar gold besides her belongings.

Counsel for the petitioner states that the articles which are said to have taken away by the petitioner no. 1 was/were *stridhan*. The present prosecution was lodged by the complainant/husband in retaliation to the complaint lodged by the wife (petitioner no. 1) against her husband under Section 498A IPC on 31.5.2010. If such prosecution is allowed to continue, the same shall result in complete miscarriage of justice.

On going through the complaint, it is found that the allegation is of taking away the belongings of the wife. The jewellery which is said to have been taken away by the wife and her father and brother is generally considered the *stridhan* of the lady/wife. That apart, it appears the process of the Court was apparently misused by the husband (complainant) to put undue pressure on his wife and her



other close family members.

In the setting of these facts clearly evidencing from the record, the continuance of the present proceeding, in the opinion of the Court, would result in miscarriage of justice.

Consequently, the application is allowed. The order dated 30.08.2012 passed by the Sub-Divisional Judicial Magistrate, Purnea in Complaint Case No. 1824 of 2010 is set aside.

(Kishore Kumar Mandal, J)

Pankaj/-

AFR/NAFR	NAFR
CAV DATE	N/A
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