

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.27973 of 2013

Arising Out of Complaint Case No. -625 Year- 2010 Thana -ROHTAS COMPLAINT CASE
District- SASARAM (ROHTAS)

- =====
1. Ajay Singh S/o Late Durga Singh, resident of village- Nasiriganj, P.O- Nasiriganj, P.S- Nasiriganj, District- Rohtas.
 2. Naya Buchi Devi W/o Ajay Singh, resident of village- Nasiriganj, P.O- Nasiriganj, P.S- Nasiriganj, District- Rohtas.

.... Petitioner/s

Versus

1. The State of Bihar
2. Nirmala Yadav S/o Late Suraj Yadav, R/o village- Ghosiya Kala, P.S- Bikramganj, Distt- Rohtas.

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Uma Shankar Singh, Adv.
For the O.P No. 2 : Mr. Arvind Kumar Pandey, Adv.
For the State : Mr. H. Ahmad Khan, APP

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CORAM: HONOURABLE MR. JUSTICE SANJAY KUMAR

ORAL JUDGMENT

Date: 11-09-2017

1. Heard both sides and perused the record.

2. This criminal miscellaneous application under section 482 of the Code of Criminal Procedure has been filed to quash the order dated 3rd February 2011 passed by the learned Sub-Divisional Judicial Magistrate, Bikramganj, Rohtas in Complaint Case No. 625 of 2010 whereby and whereunder the learned Magistrate finding *prima facie* case against the petitioners, took cognizance for the offences under sections 323, 498A of the Indian Penal Code and section 4 of the Dowry Prohibition Act.

3. The opposite party no. 2 filed a complaint case on



the file of learned Additional Chief Judicial Magistrate, Bikramganj alleging therein that these petitioners are in-laws of his daughter and they used to torture and assault her in connection with a demand of colour Television, gold chain and buffalo as further dowry.

4. On perusal of complaint petition and the documents on record, I find that these petitioners are in-laws of the daughter of the complainant. The son-in-law of complainant has not been impleaded as accused in this case. The allegation of torture and demand appears omnibus and vague. The complainant, his daughter and son-in-law have supported the allegation of torture. The daughter of complainant has not raised any grievance either against these petitioners or her husband. It further appears that the main dispute between the parties arose on account of property dispute in their family. The petitioners have denied any manner of concern with the affairs of complainant or her husband. In this regard I would like to refer the case of Neelu Chopra vs. Bharti (2009) 10 SCC 184, Geeta Mehrotra and others vs. State of U.P. and others (2012) 10 SCC 741, 2013 (2) PLJR 210 (S.C.), Preeti Gupta and others vs. State of Jharkhand and others (2010) 7 SCC 667 wherein the Hon'ble Apex Court has reiterated that in absence of specific allegation and *prima facie* case against co-accused, the order taking cognizance will be bad in law and that will be an abuse of process of court.



5. In view of the omnibus allegation against the petitioners and the ratio decided by the Hon’ble Apex Court in the aforesaid cases, the criminal prosecution of the petitioners appears to be an abuse of process of Court. The order dated 3rd February 2011 passed in Complaint Case No. 625 of 2010 as well as the criminal prosecution of these petitioners on the basis of said order is therefore quashed.

6. This criminal miscellaneous application is, accordingly, allowed.

(Sanjay Kumar, J)

Mahesh/-

AFR/NAFR	NAFR
CAV DATE	N/A
Uploading Date	24.09.2017
Transmission Date	24.09.2017

