

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.7710 of 2013

Arising Out of PS.Case No. -87 Year- 2011 Thana -ROHTAS COMPLAINT CASE District- -

- =====
1. Nawab Ali @ Nawab Ansari S/O Allauddin Ansari @ Shola Resident Of Mohalla- Mahavir Sthan, Bhabua Ward No. 23, P.S.- Bhabua, District- Kaimur (Bhabua)
 2. Md. Allauddin Ansari @ Allauddin Ansari @ Shola S/O Late Atiullah @ Late Ataullah Ansari Resident Of Mohalla- Mahavir Sthan, Bhabua Ward No. 23, P.S.- Bhabua, District- Kaimur (Bhabua)

.... Petitioners

Versus

1. The State Of Bihar
2. Shabana Yashmin @ Shabana Aasmin D/O Shahid Mistri, W/O Alamgir Ansari Resident Of Village- Kargahar, P.S.- Kargahar, District- Rohtas

.... Opposite Parties

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Appearance :

For the Petitioners : Mr.
For the Opposite Party/s : Mr.

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CORAM: HONOURABLE MR. JUSTICE ARUN KUMAR

ORAL JUDGMENT

Date: 10-10-2017

Heard learned Counsel for the petitioners and the learned Counsel for the State.

2. The petitioners have filed this quashing application under Section 482 of the Code of Criminal Procedure seeking quashing of the cognizance order dated 7.12.2012 passed by SDJM Sasaram in Compliant Case No. 87 of 2011, taking cognizance of the offence under Section 498A of the IPC and Section 4 of the Dowry Prohibition Act and issuing summons to face the trial.

3. The short facts of the case is that the complainant Shabana Aasmin was married with Alamgir Ansari on 19.6.2004. She started living in the matrimonial home after the marriage, but right from the beginning all the accused persons started making further demand of motorcycle and



Fifty Thousand rupees cash. It is alleged that in that connection she was subjected to torture by her husband, cousin brother-in-law and brother-in-law. All the accused persons threatened that if the demand of further dowry was not fulfilled, then Alamgir would marry with another girl after giving divorce to the complainant. Ultimately in the year 2008 she was ousted from the matrimonial home as the demand was not fulfilled.

4. Learned Counsel for the petitioner submits that the petitioners are brother and father respectively of the complainant's husband. There is absence of any specific imputation against them with regard to making further demand of dowry or torture in that connection. The petitioners are living separately and they have no concern with the matrimonial affair of the complainant and her husband. Learned Counsel relies on Annexures 2 and 3 filed in this case showing that three cases were filed by Md. Allauddin Ansari, petitioner No. 2 of this case, in the court of Permanent Lok Adalat and in that case all his three sons were opposite parties. In the said case, a compromise was reached and they filed a compromise petition also and the terms and conditions of the compromise also indicate that the father-in-law will be living along with the other two sons and the complainant's husband will live separately. The present complaint was filed in the year 2011. Therefore, the continuation of the criminal proceeding against these two petitioners would be an abuse of the process of the Court.

5. Contrary to that learned Counsel appearing on behalf of Opposite party No. 2 submits that the marriage of the complainant was solemnized in the year 2004 and all the accused persons used to torture her



to realize further demand made by the accused persons.

6. Having considered the rival submissions and on perusal of the record, the Court finds that only general and sweeping allegation has been leveled against these two petitioners who are father-in-law and brother-in-law of the complainant without mentioning any particular specific date of giving details of manner of committing the torture. Besides this, the documents filed by the petitioners shows that the petitioner Nos. 1 and 2 were living separately from the complainant's husband since 2007. The same is not refuted by the other side. So in absence of any specific allegation against the petitioners no ingredient of the offence as alleged is made out against these two petitioners. So continuation of the criminal proceeding against them would be abuse of the process of the Court.

7. In the result the entire criminal proceeding inclusive of the cognizance order dated 7.12.2012 only with respect to the petitioners, passed in Complaint Case No. 87 of 2011 pending in the Court of SDJM Sasaram is quashed.

8. The application stands allowed.

(Arun Kumar, J.)

Snkumar/-

AFR/NAFR	
CAV DATE	N/A
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