

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.52426 of 2013

Arising Out of PS.Case No. -2221 Year- 2012 Thana -BHOJPUR COMPLAINT CASE District-
BHOJPUR

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1. Suraj Dev Kumar Singh @ Durga Dev Singh Son Of Rajbansh Singh Resident Of Village - Silota, P.S. Sonhan, Post Khaira, District - Kaimur At Bhabhua
 2. Niranjana Kumar Son Of Rajbansh Singh Resident Of Village - Silota, P.S. Sonhan, Post Khaira, District - Kaimur At Bhabhua
 3. Rajbansh Singh Son Of Sri Parshu Singh Resident Of Village - Silota, P.S. Sonhan, Post Khaira, District - Kaimur At Bhabhua
 4. Alakhrajo Devi W/O Shri Rajbansh Singh Resident Of Village - Silota, P.S. Sonhan, Post Khaira, District - Kaimur At Bhabhua

.... Petitioner/s

Versus

1. The State Of Bihar
2. Rimpi Devi W/O Arbind Singh Resident Of Village - Silota, P.S. Sonhan, District - Kaimur At Bhabhua

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Raj Kumar, Advocate
Mr. Ankit Katriar, Advocate

For the Opposite Party

No. 1 : Mr. Rajendra Pd. Nat (App)

For the Opposite Party

No.2 : Mr. Madanjeet Kumar, Advocate

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CORAM: HONOURABLE MR. JUSTICE VINOD KUMAR SINHA
ORAL ORDER

5 18-01-2017

The present application has been preferred for quashing the order dated 20.5.2013, passed by learned Sub-Divisional Judicial Magistrate, Bhojpur, Arrah, in Complaint Case no. 2221C of 2012 by which after finding prima facie case under Sections 498A and 379 of the Indian Penal Code as well as Sections 3 / 4 of the Dowry Prohibition Act, has ordered for issuance of process against the petitioners.



The case of the complainant, as per complaint petition, is that she was married with one Arbind Singh as per Hindu rites and customs and at the time of marriage Rupees six lacs was given as gift including some articles and ornaments. Further case of the complainant is that at the time of marriage itself accused persons were not attending the marriage ceremony and they were demanding one Maruti car or Rupees three lacs but on persuasion of complainant's family, they anyhow became ready and marriage was solemnized. It is also their case that for 4 to 5 days she lived peacefully but after that the accused persons including petitioner nos. 3 and 4, who are father-in-law and mother-in-law of the complainant, had snatched her ornaments and cash and pressurized her to bring Rupees 3 lacs from her parental house otherwise they would solemnize the second marriage of her husband. Thereafter, she returned back to her parent's house and after that several times she requested the accused persons to allow her to live in her in-laws house but they were not ready.

On the basis of the aforesaid, Complaint Case no. 2221C of 2012 was registered and the matter was sent to the court of learned Sub-Divisional Judicial Magistrate, Bhojpur, Arrah, for enquiry and learned Magistrate, after making enquiry, found a prima facie case against the accused persons including petitioners



under Sections 498A and 379 of the Indian Penal Code and under Sections 3 / 4 of the Dowry Prohibition Act and ordered for issuance of process against them vide order dated 20.5.2013 passed in the above complaint case. Against which the present application under Section 482 of the Code of Criminal Procedure has been preferred by the petitioners for quashing the aforesaid order.

Heard learned counsel for the petitioners.

It has been submitted on behalf of the petitioners that they have falsely been implicated in this case only to harass the whole family members of her in-laws and as a matter of fact, earlier to filing of the complaint petition, a matrimonial case for divorce has been filed against the complainant on 29.10.2012 which is Matrimonial Case No. 138 of 2012 and after two months the present complaint case has been lodged making all the family members of the husband of the complainant accused in the case. It has further been submitted that even from perusal of the complaint petition as well as materials available during the course of enquiry, it clearly appears that not an iota of evidence is there against the petitioners rather there is general and omnibus allegation of torture against them and so far petitioners are concerned, petitioner nos. 1 and 2 are brothers-in-law of the complainant, while petitioner nos.



3 and 4 are father-in-law and mother-in-law respectively of the complainant.

Heard learned A.P.P. and learned counsel for the Opposite Party no. 2.

Learned A.P.P. as also learned counsel for opposite party no. 2 have submitted that learned Magistrate after perusal of the materials available on record including the complaint petition and the statements of the witnesses, has found a prima facie case against the petitioners under Section 498A and 379 of the Indian Penal Code and Sections 3/ 4 of the Dowry Prohibition Act. Hence, he issued process against the petitioners. As such, there is nothing illegal in it. Hence, this quashing application filed against the petitioners has no merit and is fit to be dismissed.

Heard both the parties. From perusal of the records and the complaint petition as well as the impugned order it appears that so far petitioners are concerned, petitioner nos. 1 and 2 are brothers of the husband of the complainant and so far petitioner nos. 3 and 4 are concerned, they are father-in-law and mother-in-law of the complainant and from the complaint petition itself it appears that the whole allegation of torture relates to the in-laws house and in such a situation, even if, there is no specific allegation against the father-in-law and mother-in-law, the



complaint petition cannot be thrown out on the ground that no specific allegation has been attributed against them rather whatever allegation is there that started from the time of marriage and there is nothing on the ground to show that they are living separately. So far other petitioners are concerned, they are brothers of the husband of the complainant and no specific allegation has been attributed against each of them rather there is general and omnibus allegation against them. The Hon'ble Apex Court in several cases has held that mere mentioning of relevant Sections and names of the accused persons are not sufficient rather the court below at the time of taking cognizance or issuance of process has to see particular offence committed by each of the accused person. As such, it appears that learned Sub-Divisional Judicial Magistrate, Bhojpur, Arrah, while issuing process has not considered this aspect of the matter that petitioner nos. 1 and 2 are the brothers and no specific allegation has been attributed against them. No doubt there is general and omnibus allegation against them also but on the basis of that it cannot be held that there is prima facie case against them. So far petitioner nos. 3 and 4 are concerned, though there is general and omnibus allegation against them also but considering the fact that they are father and mother of the husband of the complainant and allegation, from the face



value of the complaint petition, appears to have been made against the father-in-law and mother-in-law and occurrence is said to have been occurred in in-laws house. As such, allegation against them cannot be thrown out on the basis that there is no specific allegation attributed against them.

Considering the discussions made above, the present application, so far petitioner nos. 1 and 2 are concerned, is allowed. The order dated 20.5.2013 passed in Complaint Case no. 2221C of 2012 relates to petitioner nos. 1 and 2 are quashed.

So far the application of petitioner nos. 3 and 4 are concerned, I find no merit in their application. Hence, their application for quashing the order dated 20.5.2013 passed in Complaint Case no. 2221C of 2012 is hereby dismissed.

Accordingly, present application is allowed in part.

(Vinod Kumar Sinha, J)

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