

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.54168 of 2013

Arising Out of PS.Case No. -2957 Year- 2013 Thana -MUZFFARPUR COMPLAINT CASE
District- MUZAFFARPUR

- =====
1. Anamika Kumari @ Nisha Kumari, w/o Sanjeev Kumar Mishra,
 2. Sanjeev Kumar Mishra, s/o late Birendra Mohan Mishra, resident of village and P.O- Bahera, Jahidpur, P.S- Nanpur, District- Sitamarhi,
 3. Rupam Kumari @ Rajani Kumari, w/o Hari Kishore Pandey, resident of Mohalla- Gannipur, P.S- Kazimohammadpur, District- Muzaffarpur.

.... Petitioner/s

Versus

1. The State of Bihar
2. Anisha Sinha, w/o Sri Satish Kumar, resident of village Bahera Jahidpur P.S- Nanpur, District Sitamarhi, at present daughter of Sri Shashi Kumar Sinha, Village Khabra, P.S- Sadar, District- Muzaffarpur.

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Ajay Kumar Thakur, Advocate
Mr. Imteyaz Ahmad, Advocate
For the Opposite Party/s : Mr. A. H. M. Rahman, APP
Mr. Vijay Anand, Advocate

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CORAM: HONOURABLE MR. JUSTICE SANJAY PRIYA

ORAL JUDGMENT

Date: 28-06-2017

1. This application under Section 482 of the Code of Criminal Procedure has been filed for quashing the order dated 26.07.2013 passed by the Sub-Divisional Judicial Magistrate, Muzaffarpur, in Complaint Case No.2957 of 2012/Tr. No.2276 of 2013 by which the learned Magistrate after holding enquiry has found *prima facie* case under Section 498-A/34 Indian Penal Code against the petitioners along with other accused persons named in the Complaint Petition.

2. Petitioner No.1 is elder brother and petitioner No.2 is sister-in-law (Bhabhi) of husband of the Complainant.



Petitioner No.3 is not a family member.

3. Initially, the Opposite Party No.2 filed Kazi Mohammadpur P.S. case no. 174 of 2011 in which police after investigation submitted Final Form against all these petitioners. Charge-sheet was submitted by the police only against husband under Section 498-A Indian Penal Code. Thereafter, on the basis of protest filed by the informant, the Court below proceeded for enquiry treating the protest as Complaint Petition under Section 202 Cr. P. C. and after holding enquiry found *prima face* case against these petitioners also for the offence under Section(s) 498-A/34 Indian Penal Code by the impugned order.

4. Argument made on behalf of the petitioners is that there is vague and omnibus allegation against all these petitioners. They have no concern with day to day affairs of husband and wife. They are living separate.

5. Learned counsel for the Petitioners has relied on the judgment of the Hon'ble Supreme Court in the case of ***Preeti Gupta and another Vs. State of Jharkhand and another*** reported in (2010) 7 SCC 667 and in the case of ***Geeta Mehrotra and another Vs. State of UP and another*** reported in 2013(1) PLJR 10 and argued that continuance of the proceeding against these petitioners will be mere harassment on such vague and omnibus allegation.



6. In the instant case, entire lower court records were called for, which have been received. From perusal of the Solemn Affirmation of the complainant as well as statement of the three witnesses recorded during enquiry, it appears that mere vague and omnibus allegation has been levelled against all these petitioners.

7. In such circumstances, this Court is of the view that continuance of the criminal proceeding against these petitioners will be mere harassment and abuse of the process of Court.

8. Therefore, impugned order dated 26.07.2013 passed by the Sub-Divisional Judicial Magistrate, Muzaffarpur, in Complaint Case No.2957 of 2012/Tr. No.2276 of 2013 by which the learned Magistrate after holding enquiry has found *prima facie* case under Section 498-A/34 Indian Penal Code along with entire criminal proceeding with regard to these petitioners is hereby quashed.

9. This application is, accordingly, allowed.

(Sanjay Priya, J)

J.Alam/-

AFR/NAFR	AFR
CAV DATE	N/A
Uploading Date	14-07-2017
Transmission Date	14-07-2017

