

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.17823 of 2013

Arising Out of PS.Case No. -1296 Year- 2008 Thana -PATNA COMPLAINT CASE District-
PATNA

- =====
1. Shyama Nand Pathak, son of Late Srikant Pathak.
 2. Ram Kala Pathak @ Batahi, wife of Shyama Nand Pathak.
Both are residents of Village- Narwar, P.S.- Paithghat, District- Madhubani.
 3. Ranju Pathak @ Dabli, Wife of Amaresh Pathak, Resident of Quarter No. E-2-
A/115 South Central Coal Field Colony, P.S. Vishrampur, District- Ambikapur,
State- Chhatisgarh.
 4. Amaresh Pathak, son of Sri Shyamnanad Pathak, Resident of Flat No. 308, First
Floor, Plot No. 18, Sector-3 A, Vaishali, District- Gajiyabad, State- Uttar
Pradesh.

.... Petitioners

Versus

1. State of Bihar.
2. Nibha Kumari Chaudhary, Daughter of Sri P.C. Choudhary and wife of Dr. Braj
Nandan Pathak, Resident of Mohalla- M.I.G. 19, Main Road No.2, P.S.-
Kankarbagh, District-Patna.

.... Opposite Parties

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Appearance :

For the Petitioners : Mr. S.K. Mishra, Advocate
For the Opposite Party/s : Mr. Ashok Kumar (APP)

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CORAM: HONOURABLE MR. JUSTICE JITENDRA MOHAN SHARMA
ORAL JUDGMENT

Date: 04-12-2017

This criminal miscellaneous has been filed for quashing
the order dated 09.03.2009 passed by Shri Deepak Kumar Singh,
the then Judicial Magistrate 1st Class, Patna in connection with
Complaint Case No. 1296 (C) of 2008 whereby and whereunder
after finding prima facie case to be made out under Sections 384,
498(A)/34 of the Indian Penal Code against the petitioners and
other they have been directed to be summoned.

Heard the learned counsel for the petitioners and



learned A.P.P for the State.

The opposite party no.2 filed Complaint Case No. 1296(C) of 2008 stating therein that she was married to Dr. Braj Nandan Pathak on 08.05.2006 in Patna Panch Mandir, situated behind High Court in Sarpentine Road, according to Hindu Custom and religion and thereafter the complainant went to her matrimonial house at Village- Narwar, P.S.- Paithghat, District Madhubani, where she established cordial relation with the family members of her husband. The complainant went to Vishrampur with her husband where the behaviour of her husband changed and she learnt that her husband has illicit relationship with Ranju Pathak @ Dabli who is wife of younger brother of her husband and when the complainant narrated the story to her father-in-law and mother-in-law, they began to abuse her and thereafter, she returned to her matrimonial house where she disclosed the truth, whereupon she was assaulted by her husband and subjected to cruelty. The nearby relation of the complainant told her that her husband has illicit relationship with Ranju Devi from before which was also being opposed by his first wife. The complainant again came at Vishrampur where the husband began to move with Ranju Devi @ Dabli freely and openly and the behaviour of her husband was opposed by her children and the complainant was mercilessly



assaulted by Dabli and her husband who also disclosed her that he had married her to conceal his misdeeds and if she would not mend her way she would meet the fate of his first wife. When the brother of the complainant came to Vishrampur, she started weeping and seeing her condition he brought her to Patna. Due to the timely intervention of the respected persons of the locality, the complainant started living at her matrimonial house with her father-in-law and mother-in-law whose behaviour was not normal with the complainant so she left her matrimonial house on 12.12.2007. On 07.01.2008 at about 9:00 P.M. all accused persons and 4-5 unknown persons came to her parent's house at Kankarbagh, Patna and assaulted the complainant and having opened the Almirah removed ornaments of gold and forced the complainant to sign on blank papers at the point of pistol and they fled away by a Bolero vehicle.

The complainant was examined on solemn affirmation and thereafter two inquiry witnesses were examined and after considering the materials collected during inquiry, the learned Magistrate passed the impugned order.

On behalf of petitioners it is submitted that petitioner no.1 is father-in-law, petitioner no.2 is mother-in-law, petitioner no.3 is *gotni* and petitioner no.4 is *dewar* of the opposite party



no.2 and they are living separately since long having no concern with the family affairs of the opposite party no.2 and her husband and, as such, they ought not to have been summoned to face the trial, no offence as alleged is made out against them and, as such, the impugned order is fit to be quashed.

The learned A.P.P on the other hand submits that in the complaint petition, in the statement of the complainant on solemn affirmation and in the statement of inquiry witnesses there are allegations against the petitioners also and, as such, the impugned order passed is quite proper, correct and legal and there is no need of any interference by this Court.

Having considered the submissions urged at the Bar, going through the complaint petition and the impugned order, it is manifest that the learned Magistrate has passed the impugned order after considering the materials collected during inquiry. After perusal of the statement of the complainant on solemn affirmation, it reveals that the learned Magistrate has passed the impugned order correctly and there is no need of any interference by this Court at this stage. At this stage, the court is required only to see as to whether on the basis of materials collected during inquiry, prima facie, offence is made out or not. The points raised by the learned counsel for the petitioners can well be adjudged at



later stage i.e. at the time of framing of charge.

In the result, finding no merit in this criminal miscellaneous the same is hereby dismissed.

However, the petitioners are at liberty to raise all these points at the time of framing of charge in accordance with law and then the learned court below shall consider all these points properly in accordance with law.

(Jitendra Mohan Sharma, J.)

Rajiv/-

AFR/NAFR	NAFR
CAV DATE	
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