

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.48208 of 2015

Arising Out of PS.Case No. -288 Year- 2013 Thana -BODHGAYA District- GAYA

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1. Anil Kumar Son of Late Dwarika Prasad Resident of Mohalla - Purani Godown, Bhadani Cold Store, P.S. - Kotwali, District - Gaya.
 2. Dinesh Kumar Son of Late Surendra Kumar
 3. Dabloo Kumar @ Babloo Kumar Son of Late Surendra Kumar
 4. Mahesh Kumar Son of Late Surendra Kumar Petitioner no 2 to 4 are residents of village - Raniganj, P.S. - Imamganj, District - Gaya.

.... Petitioner/s

Versus

1. The State of Bihar.
2. Badri Prasad Varnwal Son of Late Prasadi Lal Resident of Village - G.T. Road, Ranga Matti, Mohalla - Isari Bazar, P.S. - Nimbia Ghat, District - Giridih, Jharkhand.
3. Akasnsa Wife of Pratik Raj, D/o Badri Prasad Varnwal Resident of Village - G.T. Road, Ranga Matti, Mohalla - Isari Bazar, P.S. - Nimbia Ghat, District - Giridih, Jharkhand.

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Md. Javed Jafar Khan

For the Opposite Party/s : Mr. Arbind Kumar Pandey (App)

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CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH

ORAL ORDER

02/ 09-05-2017

Heard learned counsel for the petitioners and

learned counsel for the State.

The present application has been filed for quashing the order dated 15.01.2015 passed by learned Chief Judicial Magistrate, Gaya in Bodh Gaya P.S. Case No. 288 of 2013 whereby process has been directed to be issued after cognizance being taken for the offences punishable under Sections 420 and 506 of the Indian Penal Code and Sections 3/4 of Dowry



Prohibition Act.

The prosecution case is that the informant Badri Prasad Burnwal submitted a written report before the Officer-in-charge of Bodh Gaya Police Station to the effect that he negotiated the marriage of his daughter with petitioner no. 2, Dinesh Kumar and the marriage was fixed. During engagement the informant paid Rs.11001/- along with jewellery and clothes and thereafter demand of rupees fifteen lakhs and car were made by the petitioners leading to registration of Bodh Gaya P.S. Case No. 288 of 2013 under Sections 420 and 504 of the Indian Penal Code and sections 3/4 of Dowry Prohibition Act.

On conclusion of the investigation final form (charge sheet) was submitted under Sections 420 and 506 of the Indian Penal Code and sections 3/4 of Dowry Prohibition Act and consequently the learned CJM vide order dated 15.01.2015 after perusing the records came to the conclusion that prima facie case under Sections 420 and 506 of the IPC and sections 3/4 of Dowry Prohibition Act is made out against the petitioners hence passed order of cognizance. The said order is impugned in the present proceeding.

It is submitted by learned counsel for the petitioners that petitioner no. 2 was bride groom whereas



petitioner nos. 1, 3 and 4 are the brothers of petitioner no. 2. The marriage was negotiated but after engagement the informant himself decided not to marry and got his daughter married with someone else. Petitioner no. 2 is still unmarried. Hence, maliciously the present case has been lodged.

In view of this Court at the stage of exercising jurisdiction under Section 190(1)(b) Cr.P.C. the Magistrate has to see, prima facie, case. At this stage the Magistrate has advantage of going through the materials collected during investigation brought before the Magistrate by way of police report under Section 173(2) of the Code of Criminal Procedure.

In the circumstances, this Court is not inclined to interfere. Accordingly, this application is disposed of with liberty to the petitioners to raise all the contentions at the appropriate stage of proceeding.

(Dinesh Kumar Singh, J)

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