

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.31937 of 2012

Arising Out of PS.Case No. -537 Year- 2007 Thana -null District- MUNGER

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1. Lakhan Lal Jha S/O Late Borhan Jha Resident Of Mahaddipur, P.S.- Kasim Bazar, District- Munger
 2. Laxmi Devi W/O Lakhan Lal Jha Resident Of Mahaddipur, P.S.- Kasim Bazar, District- Munger
 3. Shivendra Kumar Jha S/O Lakhan Lal Jha Resident Of Mahaddipur, P.S.- Kasim Bazar, District- Munger
 4. Ramendra Kumar Jha S/O Lakhan Lal Jha Resident Of Mahaddipur, P.S.- Kasim Bazar, District- Munger

.... Petitioners

Versus

1. The State Of Bihar
2. Munni Devi W/O Amrendra Kumar Jha Resident Of Mahaddipur, P.S.- Kasim Bazar, District- Munger, Present Resident Of Nawada (Shankarpur), P.S.- Mufassil, District- Munger

.... Opposite Parties

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Appearance :

For the Petitioners : Mr. Prashant Singh, Advocate
For the Opposite Parties : Mr. Akhileshwar Dayal, APP
For the Informant : Mr. Chandra Kumar Kashyap, Advocate.

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CORAM: HONOURABLE MR. JUSTICE SANJAY KUMAR

ORAL JUDGMENT

Date: 03-05-2017

Heard Mr. Prashant Sinha, learned counsel for the petitioners, Mr. Akhileshwar Dayal, learned APP for the State as well as Mr. Chandan Kumar Kashyap, learned counsel for the Informant.

2. The petitioners seek quashing of order dated 20.03.2012 passed by SDJM, Munger in Complaint Case No.537C of 2007 whereunder the Magistrate finding prima-facie case for the offence under Sections 498A and 494/34 of the IPC ordered for issuance of summons against the petitioners.

3. The facts in brief is that the complainant-Opposite Party No.2 filed a complaint case no.537C of 2007 on the file of CJM, Munger alleging therein



that she was married with Amrendra Kumar Jha (not petitioner before this Court) on 07.03.1988. The complainant started residing with her husband and his family members in matrimonial house. After few years her husband and in-laws started torturing her in connection with demand of Rs.20,000/- as further dowry. The complainant under compelling circumstance lodged a police case vide G.R.No.1371 of 1993 which was subsequently disposed of in view of compromise and undertaking of her husband and in-laws to keep her with full honour and dignity. After disposal of criminal case, her husband and in-laws kept the complainant for few months and thereafter they again started torturing and lastly ousted her from their matrimonial house.

4. Counsel for the petitioners submits that from the allegation made in the complaint petition and materials on record no offence under section 498A or 494 of the IPC is made out against these petitioners. The allegation of torture and demand is against the husband who allegedly performed another marriage with a lady who has been impleaded as accused no.6 in the complaint petition. The petitioner nos.1 and 2 are parents-in-laws and petitioner nos.3 and 4 are brothers-in-law of the complainant. Neither the complainant nor any of the witnesses have uttered a word against the petitioners. The complainant has specifically alleged the act of torture against her husband and so order of issuance against the petitioners is bad and against the materials on record.

5. The APP as well as counsel for the Informant however opposed the submissions.

6. On perusal of the complaint petition, statement of witnesses recorded during inquiry and other materials on record, I find that the complainant has not alleged any torture or demand of money against the petitioners. A police case vide Kotwali P.S.Case No.370 of 1993 was lodged by the father of the



complainant wherein it was alleged that the husband of his daughter was demanding money from her. The husband had married a lady. The CJM after perusing the case diary found no material against the family members, and as per order dated 27.06.1995 discharged the petitioners and took cognizance of offence under Sections 494 and 498A of the IPC only against the husband. The said case was subsequently compromised by wife and husband. In course of trial neither the complainant nor her father supported the allegation of demand and torture in view of settlement between the parties. After trial, the husband of the complainant was acquitted as per judgment dated 20.02.1996 passed in G.R.No.1371 of 1993/Trial No.423 of 1996. The complainant and her witnesses, in the present case have again asserted torture and assault against the husband and his family members (petitioners). I have carefully examined the facts asserted in complaint petition and the statement of witnesses. I find that the allegation of demand and torture is omnibus against the petitioners. These days, it is seen that exaggerated versions of the incident are reflected in a large number of complaints. The tendency of implication of family members has become affair of the day. The Hon'ble Apex Court in the case of *Preeti Gupta and another vs. State of Jharkhand* and others reported in *AIR 2010 SC 3363* at para 34 and 35 have observed as follows:-

“34. Unfortunately, at the time of filling of the complaint the implications and consequences are not properly visualized by the complainant that such complaint can lead to insurmountable harassment, agony and pain to the complainant, accused and his close relations.

35. The ultimate object of justice is to find out the truth and punish the guilty and protect the innocent. To find out the truth is a Herculean task in majority of these complaints. The tendency of implicating the husband and all his immediate relations is also not uncommon. At times, even after the conclusion of the criminal trial, it is difficult to ascertain the real truth. The courts have to be extremely careful and cautious in dealing with these complaints and must take pragmatic realities into consideration while dealing with matrimonial cases. The allegations of harassment of



husband's close relations who had been living in different cities and never visited or rarely visited the place where the complainant resided would have an entirely different complexion. The allegations of the complainant are required to be scrutinized with great care and circumspection."

7. In present complaint petition, the complainant Opposite Party No.2 in clear words at para-10 has stated that her husband has married with accused no.6 and since last four years she is leading a deserted and destituted life. In course of inquiry, the complainant and her two witnesses have also started as such. They have not alleged any specific act of cruelty at the instance of the petitioners. The allegation of torture is general and omnibus against the petitioners. The complainant had lodged a police case earlier also with similar allegation in which the petitioners were discharged. The learned APP for the State does not dispute that allegation of torture against the petitioners is omnibus.

8. Considering the facts of the case, particularly the fact that the allegations against the petitioners is general and omnibus, I am of the view that the impugned order is not sustainable in the eye of law so far petitioners are concerned. Accordingly, the order dated 20.03.2012 passed by SDJM, Munger in Complaint Case No.537C of 2007 is set aside with respect to these petitioners.

9. The application stands allowed.

(Sanjay Kumar, J)

B.Kr./-

AFR/NAFR	AFR
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