

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.31461 of 2011

Arising Out of PS.Case No. -78 Year- 2011 Thana -Complaint District- BHAGALPUR

- =====
1. Ashok Kumar Singh son of Late Raj Narayan Singh @ Raja Babu
 2. Bipin Kumar Singh son of Ashok Kumar Singh (deleted vide order dated 20.12.2013 passed in Cr. Misc. No. 53586 of 2013)
Both residents of village Jhapania, P.S. Bounsi, District Banka
 3. Rita Devi wife of Ashok Kumar Singh D/o of Jai Krishna Prasad Singh
 4. Shambhu Kumar Singh @ Shambhu Singh, Son of Narayan Singh.
 5. Ruby Devi @ Ruby Singh, Wife of Shambhu Kumar D/o Arun Prasad Singh,
All residents of Village Jhapania, P.S. Bounsi, District Banka
 6. Jai Krishna Singh Son of Ram Narayan Singh
 7. Pushpa Devi wife of Jai Krishna Singh Son of Ram Narayan Prasad Singh,
Both residents of Village Sadpur, P.S. Panjwara, District Banka.

.... Petitioners

Versus

1. The State of Bihar
2. Sweta Bharti wife of Bipin Kumar Singh, D/o Dr. Lallan Prasad Singh,
resident of village Rajendra Colony Punana Pratap Nagar, P.S. Nawgachhia,
District Bhagalpur

.... Opposite Parties

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Appearance :

For the Petitioners : Mr. Rajiv Kumar Singh, Advocate
For the State : Mr. Jitendra Kr. Singh, APP
For the O.P. No. 2 : None

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CORAM: HONOURABLE MR. JUSTICE VIKASH JAIN

ORAL JUDGMENT

Date: 24-04-2017

Heard learned counsel for the petitioners as well as
learned APP for the State.

2. The present petition has been filed for quashing the order dated 12.07.2011 passed by the Sub-Divisional Judicial Magistrate, Nawgachhia taking cognizance against the petitioners in Complaint Case No. C78 of 2011 for the offence under Sections 498A and 323 of the Indian Penal Code and Section 3/4 of the Dowry Prohibition Act.

3. The prosecution case, in short, is that the



complainant and the opposite party no. 2 were married on 15.02.2008, but after two days of marriage she returned to her paternal home. Soon after Duragaman on 12.12.2008, the accused persons started torturing the complainant and demanding dowry, forcing her to return to her parental house.

4. Learned counsel for the petitioners submits that the thrust of accusation is against petitioner no. 2, the husband of the complainant, who has however since died on 07.12.2011. It is further stated that the opposite party no. 2 has solemnized re-marriage on 16.12.2015 with one Nirmal Kumar Singh son of Sri Sushil Prasad Singh, resident of Village Bishanpur, P.S. Amarapur, District Banka. The opposite party no. 2 has also not been taking interest in prosecuting the present matter.

5. Learned APP for the State appears and has been heard. None appears on behalf of the opposite party no. 2.

6. Having heard learned counsel for the petitioners as well as learned APP for the State, this Court finds merit in the petition. The thrust of accusation in the complaint has been made against the husband of the opposite party no. 2, who has since died. The accusations are general and omnibus in nature against the remaining petitioner nos. 2, 3, 4, 5, 6 and 7 who are father-in-law, mother-in-law, cousin brother-in-law, the latter's wife, *Nanad* and *Nandos* of the complainant respectively.

7. It is well known that complaints of the present



nature are routinely filed implicating various family members and distant relatives of the husband of the complainant. In absence of the husband, it would be abuse of process of the court to allow continuance of the criminal prosecution against the remaining petitioners against whom the allegations are general and omnibus in nature.

8. It is a matter of record that the opposite party no. 2 has not been appearing in this case as evident from the orders dated 01.04.2014 and 30.06.2014 passed at the admission stage and she has also not appeared when the matter is called today at the hearing stage. It is therefore clear that the complainant has lost interest in pursuing the matter, more so when she is said to have solemnized second marriage with Nirmal Kumar Singh.

9. In the above view of the matter, the impugned order dated 12.07.2011 passed by the Sub-Divisional Judicial Magistrate, Nawgachhia taking cognizance against the petitioners in Complaint Case No. C78 of 2011 for the offence under Sections 498A and 323 of the Indian Penal Code and Section 3/4 of the Dowry Prohibition Act is hereby quashed and the petition stands allowed.

(Vikash Jain, J)

B.T/-

AFR/NAFR	NAFR
CAV DATE	N.A.
Uploading Date	27.04.2017
Transmission Date	27.04.2017

