

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.30265 of 2013

Arising Out of PS.Case No. -1674 Year- 2009 Thana -PATNA COMPLAINT CASE District-
PATNA

- =====
1. Chandra Kr. Roy, son of late Ambika Roy,
 2. Indira Roy, wife of Sri Chandra Kr. Roy, resident of village- Road No. 14 B,
East Ashok Nagar, P.S.- Kankarbagh, District- Patna

.... Petitioner/s

Versus

1. The State of Bihar
2. Sarita Singh, wife of Prabhat Kumar Roy, D/O Raghubansh Narayan Singh,
resident of Judges Colony, R.P.S. More, Saguna, P.S.- Rupaspur, District- Patna

.... Opposite Party/s

With

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Criminal Miscellaneous No. 23741 of 2012

Arising Out of PS.Case No. -0 Year- null Thana -null District- PATNA

- =====
1. Perna Kaushal, w/o Sri Prashant Kumar Roy,
 2. Prashant Kumar, S/O Chandra Kumar Roy, both resident of village- Road No.
14-B, East Ashok Nagar, P.S- Kankbarbagh, District- Patna.

.... Petitioner/s

Versus

1. The State of Bihar
2. Sarita Singh, wife of Prabhat Kumar Roy, and d/o Raghubansh Narayan Singh,
resident of Judge Colony, R.P.S- More, Saguna, P.S- Rupaspur, District- Patna.

.... Opposite Party/s

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Appearance :

(In Cr.Misc. No.30265 of 2013)

For the Petitioner/s : Mr. P. K. Shahi, Sr. Advocate with
Mr. Vipin Kumar, Advocate

For the Opposite Party/s : Mr. Anish Chandra, APP
Mr. Ajay Kumar Singh, Advocate

(In Cr.Misc. No.23741 of 2012)

For the Petitioner/s : Mr. P. K. Shahi, Sr. Advocate with
Mr. Vipin Kumar, Advocate

For the Opposite Party/s : Mr. Suman Kr. Singh, Advocate
Mr. Ajay Kumar Singh, Advocate

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CORAM: HONOURABLE MR. JUSTICE SANJAY PRIYA

ORAL JUDGMENT

Date: 12-01-2017



Both these petitions under Section 482 Cr. P.C. have been filed for quashing the order dated 18.03.2010 passed by the Sub-Divisional Judicial Magistrate, Patna, in Complaint Case No.1674-C of 2009 by which the learned Magistrate has found *prima facie* case under section 498-A Indian Penal Code and $\frac{3}{4}$ of the Dowry Prohibition Act against the petitioners and others.

Heard learned counsel for the petitioners and the learned APP for the State.

Counsel for the petitioners submits that there is general allegation against these petitioners, who are father-in-law, mother-in-law, sister-in-law and brother-in-law of the complainant. It has further been submitted that marriage has already been dissolved by the *ex-parte* decree of divorce, dated 22nd May, 2012, passed by the Civil Judge, Gautam Budh Nagar, Uttar Pradesh. Learned counsel for the petitioners has relied upon the decision of the Supreme Court in the case of ***Geeta Mehrotra and another Vs. State of U.P. and another reported in 2013 (1) PLJR 10*** in support of his submission that where there is general and oral allegation against the family member, continuance of the proceeding would be abuse of the process of law.

Learned counsel for the Opposite Party No.2 submitted that the allegation in the Complaint Petition is that on the instigation of these petitioners the husband has committed torture with the



complainant. It is further submitted that quashing application under Section 482 Cr. P.C. would not be maintainable; instead revision application would be maintainable.

Section 482 Cr. P. C. does not bar the High Court from exercising the jurisdiction to quash the order of cognizance. This Court is of the view that in view of the inherent power under Section 482 Cr. P.C., this Court can test the justifiability of the order passed by the learned Court below by which cognizance has been taken against the petitioners and other accused under Section(s) 498-A Indian Penal Code and 3/4 of the Dowry Prohibition Act.

Certified copy of the Solemn Affirmation of the complainant is produced by the counsel for the petitioners during the course of hearing, wherein, general allegation has been levelled against these petitioners that they had instigated the husband.

In the circumstances, after looking into the allegation as made out in the Complaint Petition and the Solemn Affirmation of the complainant and relying upon the decision of the Supreme Court in the case of ***Geeta Mehrotra (supra)***, this Court is of the view that continuance of the criminal proceeding against the petitioners is abuse of process of law and harassment to the petitioners.

Accordingly, the order dated 18.03.2010 passed by the Sub-Divisional Judicial Magistrate, Patna, in Complaint Case No.1674-



C of 2009 along with entire proceeding so far it relates to the petitioners only, is hereby quashed.

Both the applications stand allowed.

(Sanjay Priya, J)

JA/-

AFR/NAFR	NAFR
CAV DATE	N/A
Uploading Date	26-01-2017
Transmission Date	26-01-2017

