

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.32850 of 2013

Arising Out of PS.Case No. -3029 Year- 2010 Thana -SIWAN COMPLAINT CASE District-
SIWAN

- =====
1. Anju Bishwakarma @ Anju Devi W/O Pintu Bishwakarma Resident Of Village-
Barhaj Purbi Patel Nagar, P.S.- Barhaj, District- Deoria (U.P.)
 2. Radheshyam Sharma Son Of Jagdish Sharma Resident Of Village- Miyan Gundi,
P.O.- Sematar, P.S.- Guthani, District- Siwan
 3. Smt. Usha Devi W/O Radheshyam Sharma Resident Of Village- Miyan Gundi,
P.O.- Sematar, P.S.- Guthani, District- Siwan

.... Petitioner/s

Versus

1. The State Of Bihar
2. Kamakhya Devi W/O Sanjay Bishwakarma Resident Of Village- Gauri Baluwa,
P.O.- Rupan Chapra, P.S.- Lar, District- Deoria (U.P.)

.... Opposite Party/s

with

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Criminal Miscellaneous No. 11417 of 2014

Arising Out of PS.Case No. -3029 Year- 2010 Thana -SIWAN COMPLAINT CASE District-
SIWAN

- =====
1. Shiv Nath Bishwakarma . Son Of Late Ram Sharan Bishwakarma
 2. Smt. Riva Devi Wife Of Shiv Nath Bishwakarma
 3. Puja Bishwakarma @ Puja Kumari D/O Sri Shiv Nath Bishwakarma
 4. Sanjay Bishwakarma Son Shiv Nath Bishwakarma All Are Resident Of Village-
Gauri Baluwa, P.O.-Ropan Chhapar, P.S.-Lar, District-Deoria (U.P.)

.... Petitioner/s

Versus

1. The State Of Bihar



2. Kamakhya Devi Wife Of Sanjay Bishwakara And D/O Ram Bilash
Bishwakarma At Present Resident Of Village-Barpaliya, P.S.-Guthani,

.... Opposite Party/s

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CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR JHA
ORAL JUDGMENT
Date: 04-04-2017

Heard both sides.

The petitioners have filed both the petitions under Section 482 of the Code of Criminal Procedure to quash the order dated 25.03.2011, by which the learned S.D.J.M., Siwan found the prima facie case against the petitioners under Sections 498A, 406, 341, 323/34 of the Indian Penal Code and Sections 3/4 of the Dowry Prohibition Act.

The Complainant-Opposite Party No. 2, has made allegation against her husband and other in-laws for demand of dowry and subjecting her to mental and physical torture, for non fulfillment of dowry demand, after her marriage. The complainant gave birth to a female child in the year 2010 and thereafter the accused persons started making demand of Rs. 1,50,000/- and subjected her to physical and mental torture as well as drove out her from the matrimonial house. The husband of the complainant also solemnized second marriage. The learned Judicial Magistrate after examination of the complainant and her witnesses found the prima facie case to proceed



against the accused persons under Sections 498A, 406, 341, 323/34 of the Indian Penal Code and Sections 3/4 of the Dowry Prohibition Act, vide his order dated 25.03.2011.

Learned counsel for the petitioners submits that the petitioners in Criminal Miscellaneous No. 11417 of 2014 are husband, Father-in-Law, Mother-in-Law and Sister-in-Law. In Criminal Miscellaneous No. 32850 of 2013, the petitioner no.1 Anju Bishwakarma, is the married Sister-in-Law of the complainant and petitioner nos. 2 and 3 are the maternal Brother-in-Law and maternal Sister-in-Law of the complainant. Learned counsel for the petitioners submits that the complainant made allegation against her husband, Father-in-Law, Mother-in-Law and Sisters-in-Law but did not make any sort of allegation against petitioner no. 2 Radheshyam Sharma and petitioner no. 3 Smt. Usha Devi of (Criminal Miscellaneous No. 32850 of 2013), who happened to be the maternal brother of her husband and his wife. It is further submitted that the learned S.D.J.M., Siwan did not advert any material on record collected during the course of inquiry and in a mechanical manner passed the order finding prima facie case against all the accused persons.

In reply to the submissions made by the learned counsel for the petitioners, learned counsel for the complainant submits that the complainant made allegation against all the accused



persons.

After considering the submissions and perusal of the materials on record, it transpires that the complainant has alleged that her husband, Father-in-Law, Mother-in-Law and Sisters-in-Law subjected her to physical and mental torture for non fulfillment of the demand of dowry. When she gave birth to a female child, the complainant alleged that her Father-in-Law, Mother-in-Law and Sisters-in-Law, demanded Rs. 1,50,000/- to send her husband to foreign country. It appears that the complainant did not make any allegation against petitioner no. 2 Radheshyam Sharma and petitioner no. 3 Smt. Usha Devi of (Criminal Miscellaneous No. 32850 of 2013), who are distantly related with the husband of the complainant.

Considering the facts aforesaid, I find that the order finding prima facie case against the petitioner no. 2 Radheshyam Sharma and petitioner no. 3 Smt. Usha Devi of (Criminal Miscellaneous No. 32850 of 2013) is bad and illegal. Accordingly, so far as petitioner Radheshyam Sharma and Smt. Usha Devi are concerned, the order dated 25.03.2008 is set aside.

So far as the order dated 25.03.2008, with regard to other petitioners named above is concerned, I do not find any illegality as there is allegation against them for demand of dowry and torture. Accordingly, the quashing petition against petitioner no. 1



Anju Bishwakarma of (Criminal Miscellaneous No. 32850 of 2013) and petitioner no. 1 Shiv Nath Bishwakarma, petitioner no. 2, Smt. Riva Devi, petitioner no. 3 Puja Bishwakarma, petitioner no. 4 Sanjay Bishwakarma of (Criminal Miscellaneous No. 11417 of 2014) is dismissed.

(Prabhat Kumar Jha, J)

Ranjan/-

AFR/NAFR	NAFR
CAV DATE	N.A.
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