

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.27845 of 2014

Arising Out of PS.Case No. -374 Year- 2007 Thana -WEST CHAMPARAN COMPLAINT District-
WESTCHAMPARAN(BETTIAH)

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1. Lalbabu Yadav Son of Late Lagan Yadav
2. Shusila Devi Wife of Lal Babu Yadav Both the Resident of Village -
Danmarwa Tola Murvera, Police Station - Ram Nagar, District - West
Champaran.

.... Petitioner/s

Versus

1. The State of Bihar
2. Tara Devi Wife of Gambu Yadav, Daughter of Late Rudal Yadav At
Present Resident of Village - Belawa Mod, Police Station-Gonaha, Dist. -
West Champaran

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Milind Kumar Mishra

For the Opposite Party/s : Mr. Sanjay Kr.Sharma,A.P.P.

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CORAM: HONOURABLE MR. JUSTICE PRAKASH CHANDRA
JAISWAL
ORAL ORDER

4 19-07-2017 Heard learned counsel for the petitioners and learned
A.P.P. for the State.

This application under Section 482 of the Code of
Criminal Procedure has been filed for quashing the order dated
23.12.2008 passed by learned Sub-divisional Judicial Magistrate,
Bettiah, West Champaran in S.C.No. 223 of 2013, whereby the
learned Magistrate finding prima facie case under Section 498A of
the Indian Penal Code and Section 4 of Dowry Prohibition Act
against four persons including the petitioners ordered to issue
summons against them.



It is submitted by learned counsel for the petitioners that petitioner no.1 is the brother of the husband of the complainant and petitioner no.2 is the wife of petitioner no.1.They have played no role in the alleged offence. It is further submitted that there is general and omnibus allegation against them. Hence, no prima facie case is made out against the petitioners and cognizance should not have been taken against them.

Learned counsel for the petitioners has placed reliance upon a decision of the Hon'ble Supreme Court in the case of *Geeta Mehrotra & anr –v- State of U.P. & ors, reported in (2012)10SCC 741*. In the said case Hon'ble Apex Court has been pleased to observe in para 28 as under:-

“We, therefore, deem it just and legally appropriate to quash the proceedings initiated against the appellants Geeta Mehrotra and Ramji Mehrotra as the FIR does not disclose any material which could be held to be constituting any offence against these two appellants. Merely by making a general allegation that they were also involved in physical and mental torture of respondent 2 complainant without mentioning even a single incident against them as also the fact as to how they could be motivated to demand dowry when they are only related as brother and sister of the complainant's husband. We are pleased to quash and set aside the criminal proceedings in so far as these appellants are concerned and consequently the order passed by the High Court shall stand overruled. The appeal is accordingly allowed.”

The opposite party no.2 has filed the complaint



petition with the allegation in succinct that she was married with accused no.1,Imdu Yadav. Three years before the marriage accused persons named in the complaint petition started subjecting her to torture over dowry demand of Rs. 50,000/- and blaming her sterile. Her husband developed illicit relation with his sister-in-law and on protest all the accused persons subjected her to torture and finally they drove her out of her marital house snatching her belongings.

The complainant examined herself on solemn affirmation and also examined her three witnesses during the course of enquiry u/s 202 Cr.P.C. Perusing the complaint petition and material available on record and finding prima facie case, learned Magistrate took cognizance of the offence under Section 498A IPC and Section 4 of Dowry Prohibition Act against all the accused persons including the petitioners.

From perusal of the complaint petition it appears that there is general and omnibus allegation against all the accused persons including the petitioners of demanding dowry of Rs.50,000/- from the complainant, subjecting her to torture and driving her out of her matrimonial home over the said dowry demand blaming her sterile. Petitioner no.1 happens to be the elder brother in law while petitioner no.2 is sister-in-law of the



complainant and there is no specific allegation against the petitioners as to what role they have played in the alleged occurrence and how they could be motivated to demand dowry when they are related as brother-in-law and sister-in-law of the complainant. Thus, there is no material to constitute offence against the petitioners.

In the facts and circumstances of the case, the order of cognizance passed against the petitioners is hereby quashed. The application is accordingly allowed.

(Prakash Chandra Jaiswal, J)

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