

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.12240 of 2014

Arising Out of PS.Case No. -242 Year- 2007 Thana -COMPLAINT CASE District- SUPAUL

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1. Sunil Kumar Jha, Son Of Bisheshnath Jha
2. Manoj Kumar Jha, Son Of Bisheshnath Jha
3. Kanchan Devi, Wife Of Manoj Kumar Jha
4. Bisheshnath Nath, Son Of Swarup Narain Jha
All Resident Of Village- Belasadi, P.S.- Srinagar Hat, District- Supaul

.... Petitioner/s

Versus

1. The State Of Bihar
2. Smt. Punam Devi @ Karpoori Devi, Wife Of Sunil Kumar Jha, Resident Of Village- Belasadi, P.S.- Srinagar Hat, District- Supaul, At Present Residing At Daharia, P.S.- Chhatapur, District- Supaul

.... Opposite Party/s

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Appearance :
For the Petitioner/s : Mr. Manoj Kumar
For the Opposite Party/s : Mr. Amarnath Jha

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CORAM: HONOURABLE MR. JUSTICE SANJAY KUMAR

ORAL JUDGMENT

Date: 19-07-2017

This is an application under Section 482 of Cr.P.C. for quashing the order dated 22.08.2007 passed by the learned S.D.J.M., Supaul in Complaint Case No. 242 of 2007 whereunder cognizance under Section 498-A of the I.P.C. has been taken against the petitioners.

2. Heard both sides.

3. The complainant (O.P. No. 2 before this Court) filed a Complaint Case No. 242 of 2007 on the file of C.J.M., Supaul alleging inter alia that she was married with petitioner no. 1 on 19.02.1988. The complainant came to matrimonial house in March, 1991, where her husband and in-laws started demanding Rs. 50,000/-. The said demand was not fulfilled on account of which her



in-laws started torturing. She has further alleged that her Gotani, namely, Kanchan Devi sprinkled kerosene oil on 09.05.2002 and other co-accused lit fire. She sustained injury and was treated. The complainant was compelled to leave the house and she came back at the place of her brother on 10.04.2007.

4. The learned counsel for the petitioners submits that the complainant is not legally married wife of the petitioner no. 1. The family members of the complainant kidnapped the petitioner no. 1 for his marriage with the complainant for which the petitioner no. 4 lodged Saharsa P.S. No. 90 of 1988 on 23.02.1988. The matter was investigated by the police and a charge-sheet was submitted against the accused persons. The complainant never visited at their house and so, the allegation of demand of money and assault is baseless. The learned Magistrate has passed the impugned order without applying judicial mind and so, the order is fit to be quashed. The learned counsel for the Opposite Party No. 2 opposed the submission.

5. On perusal of complaint petition, impugned order and annexures available on record, I find that the complainant has alleged that she is legally married wife of petitioner no. 1. She has alleged that after her marriage, she went to her sasural where she was assaulted by her husband and in-laws. The complainant and her witnesses have supported the allegation of assault by the husband



and his family members on account of refusal to fulfill the demand of money. The magistrate on being satisfied with the material on record took cognizance of offence under Section 498A of the I.P.C and summoned the petitioners. The petitioner no. 2 to 4 are brother and parents of petitioner no. 1. The petitioner no. 4 has come with different story that the complainant is not legally wife of the petitioner no. 1. They have further denied any manner of concern with the affairs of the complainant. The petitioner no. 4 asserts that he is an old man aged about 80 years and has retired from the post of head clerk from Murliganj, Block Office. He has filed a police case vide Saharsa P.S. Case No. 90 of 1988 for kidnapping of his son. Their defence for false implication can be taken at the time of trial.

6. In view of the above discussions, I find that the Magistrate has rightly summoned the petitioners. As such, this criminal miscellaneous application has got no merit and is dismissed. The petitioners will be at liberty to raise his grievance at the time of framing of charge which shall be considered on the merit without being prejudiced by the order of the Court.

(Sanjay Kumar, J)

ajaypd./-

AFR/NAFR	NAFR
CAV DATE	NA
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