

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.8510 of 2014

Arising Out of PS.Case No. -42 Year- 2012 Thana -MAHILA P.S. District- SAHARSA

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1. Md. Illiyas S/O Late Sahimuddin
2. Md. Sohail S/O Late Sahimuddin
3. Md. Shamshad S/O Late Sahimuddin
4. Md. Rashid S/O Md. Illiyas All Are Resident Of Village- Sitanabad Dakshini Panchayat, P.S.- Simri Bakhtiyarpur, District- Saharsa.

.... Petitioners

Versus

1. The State Of Bihar
2. Bibi Shabana Khatoon W/O Late Naushad Alam Resident Of Village- Sitanabad Dakshini Panchayat, P.S.- Simri Bakhtiyarpur, District- Saharsa.

.... Opposite Parties

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Appearance :

For the Petitioners	:	Mr. Bhaskar Shankar, Advocate
For the State	:	Mr. Md. Fahimuddin, A.P.P.

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CORAM: HONOURABLE MR. JUSTICE ARUN KUMAR

ORAL JUDGMENT

Date: 02-08-2017

The petitioners have challenged for quashing the cognizance order dated 18.4.2013 passed by Judicial Magistrate Ist Class, Saharsa in Saharsa (Mahila) P.S. Case No.42 of 2012 whereby cognizance has been taken under Sections 498a/34, 341 and 323 of the Indian Penal Code.

2. It is submitted that complaint was filed by the complainant and it was sent by C.J.M. under Section 156(3) of Cr.P.C. for lodging F.I.R. The complainant has filed this case against the brothers of her husband to put undue pressure for settling land dispute. She has filed the complaint after death of her husband to put pressure on petitioners' brothers of her husband due to property dispute. The entire allegation levelled in the complaint do not make



out a prima facie case under Section 498A and other Sections of the I.P.C. Earlier she had filed a case before the D.C.L.R. relating to the dispute of property and against that order the petitioners preferred appeal before the Commissioner, against order of the Commissioner she preferred C.W.J.C. No.1720 of 2012 before this Court wherein it is held that the question of dispute relates to title and possession whereas the learned counsel appearing on behalf of opposite party no.2 submits that there is also allegation of assault by the accused persons.

3. Having considered rival submissions and on perusal of record, the Court finds that even taking into account entire allegation levelled in the complaint on basis of which Saharsa (Mahila) P.S. case No.42 of 2012 was filed, no prima facie case of Section 498A and other Sections of I.P.C. are made out rather in order to settle property dispute of the family the present case has been filed. Hence, the entire criminal proceeding including the order dated 18.4.2013 is hereby set aside.

4. The petition stands allowed.

(Arun Kumar, J)

N.H./-

AFR/NAFR	NAFR
CAV DATE	N/A
Uploading Date	06-09-2017
Transmission Date	06-09-2017

