

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.28151 of 2014

Arising Out of PS.Case No. -2208 Year- 2012 Thana -PATNA COMPLAINT CASE District-
PATNA

- =====
1. Sanjeet Kumar Son of Awadh Prasad Resident of Village - R-Block, Near Railway Gumti Patna, Road No. 5, Sarkari Godam, P.S. - Sachivalaya, Patna.
 2. Nisha Devi Wife of Sanjit Kumar Resident of Village - R-Block, Near Railway Gumti Patna, Road No. 5, Sarkari Godam, P.S. - Sachivalaya, Patna.

.... Petitioners.

Versus

1. The State of Bihar
2. Mala Kumari Wife of Rahul Kumar, D/o - Naresh Prasad, Resident of Mohalla - Jagat Narayan Road, Jagjeevan Gali, P.S. - Kadamkuan, Patna, Distt. - Patna.

.... Opposite Parties.

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Appearance :

For the Petitioners : Mr. Chhote Lal Mishra, Adv.

Mr. Ajay Kumar Mishra, Adv.

For the Opposite Party No.2 : Mr. Jitendra Kumat Tiwary, Adv.

For the State : Mr. Jitendra Kumar Singh-1, A.P.P.

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**CORAM: HONOURABLE MR. JUSTICE PRAKASH CHANDRA
JAISWAL**

ORAL JUDGMENT

Date: 26-07-2017

This petition under Section 482 of the Code of Criminal Procedure has been preferred against the order dated 13.02.2013 passed by the learned S.D.J.M., Patna in Complaint Case No.2208 (C) of 2012, whereby finding prima facie case against five accused



persons including the petitioners under Section 498 A of the Indian Penal Code and Section 4 of the Dowry Prohibition Act, learned Magistrate has ordered to issue summon against them.

It has been submitted by learned counsel for the petitioners that the petitioners happen to be the brother-in-law (Nandoi) and sister-in-law (Nand) respectively of the complainant. They are living separately and have no concern with the affairs of the complainant and her husband. They have been falsely implicated in this case. There is no specific allegation against the petitioners rather the allegations are general and omnibus in nature. Hence, no prima facie case is made out against them.

Learned counsel for the opposite party no.2, in spite of putting appearance in the case is not present.

Heard learned counsel for the petitioners and perused the record.

From perusal of the records, it appears that complainant Mala Devi filed a complaint case against the five accused persons named in the complaint petition including the petitioners with the allegations in succinct that the marriage of the complainant was performed with accused no.1-Rahul Kumar. After the marriage, she lived in her marital house happily for 2-3 months and when she



became pregnant accused persons started demanding of Rs.1 lac in cash for dowry and subjected her to torture for not coughing up the aforesaid demand. When her father wanted to meet her and to reconcile the matter, he was not permitted to do so. After hectic persuasions, her bidai was performed and later on the accused persons took her to marital house and again subjected her to torture. On getting information, her father arrived at the marital house and with the help of the police took her back.

In buttress of her case complainant examined her self on S.A. and five witnesses under Section 202 of the Cr.P.C. On perusing the complaint petition & material available on record, the learned Magistrate finding prima facie case against the accused persons including the petitioners under Section 498 A and Section 4 of the Dowry Prohibition Act has ordered to issue summon against them.

On perusal of the records, it appears that petitioner no.1 is brother-in-law and petitioner no.2 is sister-in-law of the complainant. There is no specific allegations against the petitioners rather the allegations of demand of dowry and subjecting the complainant to torture levelled against them, is general and omnibus in nature. There is nothing on record to indicate as to what motivated the petitioners to make demand of dowry from the complainant. Hence,



no prima facie case is made out against the aforesaid petitioners and continuance of the proceedings against them is sheer abuse of the process of the Court.

Accordingly, this petition is allowed and the impugned order passed by the learned lower court is quashed.

(Prakash Chandra Jaiswal, J.)

Trivedi/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	28.07.2017
Transmission Date	28.07.2017

