

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.23706 of 2014

Arising Out of P.S.Case No. -3134 Year- 2011 Thana -MUZFFARPUR COMPLAINT CASE
District- MUZAFFARPUR

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Gauri Shankar S/o Hari Kant Thakur Resident of Mohalla Sri Krishna Nagar, P.S. Motihari, District Eat Champaran.

.... Petitioner

Versus

1. The State of Bihar
2. Archana W/o Gauri Shankar, D/o Jitendra Kumar Resident of Quarter No. E/9B, Imli Road Railway Colony, P.S. Kazi Mohammadpur, District Muzaffarpur.

.... Opposite Parties

with

Criminal Miscellaneous No. 8121 of 2014

Arising Out of P.S.Case No. -3134 Year- 2011 Thana -MUZFFARPUR COMPLAINT CASE
District- MUZAFFARPUR

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1. Binita Wife Of Shri Abhishek Bharti Resident Of Village - Barahampura, Near Sanjay Cinema Hall, Muzaffarpur at Present Kishangarh, Basantkunj, New Delhi
 2. Abhishek Bharti Son of Sri Ravindra Singh Resident of Village - Barahampura, Near Sanjay Cinema Hall, Muzaffarpur, at Present Kishangarh, Basantkunj, New Delhi
 3. Indra Bhushan Son of Late Ramswaroop Tiwari Resident of Village - Janakpuri, Janakpuri, Police Station - New Delhi, Permanent Resident Of Village - Radhaul, P.S.- Sursand, District - Sitamarhi
 4. Mamta Thakur @ Guddi Wife of Shri Indrabhushan Resident of Village - Janakpuri, Janakpuri, Police Station - New Delhi, Permanent Resident Of Village - Radhaul, P.S.- Sursand, District - Sitamarhi
 5. Om Prasash Singh Son of Latte Ram Brishna Singh, Resident of Village - Kohbarwa, P.S.- Sonbarsa, District - Sitamarhi
 6. Pratibha Wife of Sri Om Prakash Singh Resident of At Present Nagloi, Delhi, Permanent Resident Of Village - Kohbarwa, P.S.- Sonbarsha, District - Sitamarhi.
 7. Baban Thakur Son Of Sri Harikant Thakur Resident Of Village - Flat No. 1/94, D.D.A., L.I.G. Flat, Kalkaji, P.S.- Kalkaji, New Delhi, Permanent Resident Of Village - Gorain, P.S.- Chak Mehasi, District - Samastipur
 8. Harikant Thakur Son of Late Hridya Thakur Resident of Village - Flat No. 1/94, D.D.A., L.I.G. Flat, Kalkaji, P.S.- Kalkaji, New Delhi, Permanent Resident Of Village - Gorain, P.S.- Chak Mehasi, District - Samastipur

.... Petitioners

Versus

1. The State of Bihar
2. Archana Wife Of Gourishankar, Daughter of Jitendra Kumar Resident of D.D.A Flat, 1/94, L.I.G., Kalkajee, New Delhi, at present residing at E/9B Railway Quarter, Email Road Railway Colony, P.S.- Kaji Mohammadpur, District - Muzaffarpur

.... Opposite Parties



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Appearance :

(In Cr.Misc. No.23706 of 2014)

For the Petitioner : Mr. Ajay Kumar Thakur, Advocate
: Mr. Nachiketa Jha, Advocate
For the Opposite Party No.2 : Mr. Dr. Amrendra Kumar, Advocate
: Mr. Ravi Shankar Pankaj, Advocate
For the State : Mr. Sanjay Kumar Singh, APP

(In Cr.Misc. No.8121 of 2014)

For the Petitioners : Mr. Dilip Kumar Tondon, Advocate
: Mr. Ajeet Kumar Bhardwaj, Advocate
For the Opposite Parties : Mr. Dr. Ajeet Kumar, APP

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CORAM: HONOURABLE MR. JUSTICE SANJAY KUMAR

ORAL JUDGMENT

Date: 27-07-2017

This criminal miscellaneous application has been filed to quash the order dated 13.09.2012 passed by SDJM (East), Muzaffarpur passed in Complaint Case No.3134 of 2011 wherein cognizance has been taken under Sections 498A and 323/34 of the IPC and Section 4 of the Dowry Prohibition Act summoned the petitioners.

Heard both sides and perused the record.

Petitioner of Cr.Misc.No.23706 of 2014 is the husband and petitioners of Cr.Mis.No.8121 of 2014 are in-laws of the complainant (Opposite Party No.2).

The facts in brief is that the Opposite Party No.2 filed a complaint case on the file of learned CJM alleging inter-alia that she was married with petitioner Gauri Shankar (Cr.Misc.No.23706 of 2014) on 02.12.2009. The husband and in-laws on the date of marriage ceremony started creating trouble with the complainant in connection with demand of a Honda city vehicle. After marriage she came at her matrimonial house where she was not allowed even to enter into the matrimonial house for half hour on the occasion of her first arrival at the place of the petitioners. The husband of the petitioner was posted as Drug Inspector at Ahmadabad. He was transferred to Delhi and at both the places of his postings her-in-laws used to torture her. All the petitioners tortured the complainant and on several occasion they assaulted her. They assaulted her and they brought the complainant at Motihari on 08.12.2011 and brutally assaulted



after locking in a room. Lastly, the complainant sent at the place to her father by train. The matter was enquired and the learned Magistrate finding prima-facie case took cognizance of offence as stated above.

It has been submitted that the complainant does not want to live with the husband or his parents and on several occasion she created nuisance in the family. The husband of the complainant is in transferable job and he was transferred to different places where the complainant was kept but every where she created trouble in peaceful living of the petitioners'. The other in-laws have no concern with the affairs of complainant or her husband. The complainant has voluntarily left the company of her husband the allegation of torture and demand of Honda city car has been made only to make the offence grave. The learned Magistrate has not applied the judicial mind while taking cognizance and so the impugned order is fit to be quashed.

Learned counsel for the Opposite Party No.2 and APP opposed the submission.

On perusal of impugned order as well as complaint petition, I find that the petitioner Gauri Shankar (Cr.Misc.No.23706 of 2014) is the husband of the complainant and petitioner nos.7 and 8 (Cr.Misc.No.8121 of 2014) are the parents in-laws of Opposite Party No.2. The petitioner nos.1 to 6 (Cr.Misc.No.8121 of 2014) are sisters and brother-in-law of the husband of the complainant. The specific allegation of demand of Honda city car is against the husband and parents-in-laws of the complainant. They were residing together at the place of posting of her husband. The specific allegation is that her parents-in-laws reached at Delhi and started creating trouble with the complainant and at one point of time they threw the dish on her person. The parents-in-laws used to chide her and at their instigation, her husband assaulted the complainant on several occasion. The husband has filed a matrimonial case also against the complainant. These petitioners snatched her house hold articles and ousted her from their house. The



complainant in her solemn affirmation and other witnesses supported the allegation of torture and assault in connection with demand of Honda city car and other articles. The learned Magistrate finding prima-facie case has rightly taken cognizance against these three petitioners. I do not find any illegality in summoning the husband and parents in-laws of the complainant. The prayer of petitioner Gauri Shankar (Cr.Misc.No.23706 of 2014) and Petitioners Baban Thakur and Harikant Thakur (Cr.Misc.No.8121 of 2014) for quashing the cognizance order is dismissed.

So far as petitioners, namely, Binita, Abhishek Bharti, Indra Bhushan, Mamta Thakur @ Guddi, Om Prasash Singh and Pratibha (Cr.Misc.No.8121 of 2014) are concerned, they are sisters and brothers-in-law of the husband of the complainant and they were/are residing at different places. The complainant has stated that these petitioners used to visit at the place of her husband. The allegation of assault and torture appears omnibus against these petitioners. The prosecution of these petitioners no. 1 to 6 in such circumstance appears to be an abuse of the process of the Court. The cognizance order with respect to the petitioners Binita, Abhishek Bharti, Indra Bhushan, Mamta Thakur @ Guddi, Om Prasash Singh and Pratibha (Cr.Misc.No.8121 of 2014) is quashed.

This application is accordingly disposed of in the manner indicated above.

(Sanjay Kumar, J)

B.Kr./-

AFR/NAFR	NAFR
CAV DATE	
Uploading Date	08.08.2017
Transmission Date	08.08.2017

