

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.23318 of 2014

Arising Out of PS.Case No. -900 Year- 2008 Thana -MUZFFARPUR COMPLAINT CASE
District- MUZAFFARPUR

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1. Saukhi Sahni Son of late Jangbahadur Sahni
2. Shail Kumari Devi Wife of Saukhi Sahni
3. Suresh Sahni Son of Saukhi Sahni
4. Neela Devi Wife of Suresh Sahni
5. Umesh Sahni Son of Saukhi Sahni
6. Jaimala Devi Wife of Umesh Sahni
7. Mukesh Kumar Son of Saukhi Sahni
8. Mithilesh Sahni Son of Saukhi Sahni all are resident of village- Kaila Jalalpur, P.S.- Garoal, O.P.- Dilahpur Vasama, District- Vaishali.

.... Petitioners

Versus

1. The State of Bihar
2. Inar Devi daughter of late Gonaur Sahni resident of village- Taraora Gopalpur, P.S.- Mushahari, District- Muzaffarpur

.... Opposite Party

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Appearance :

For the Petitioners	:	Mr. Rajeev Ranjan, Advocate Ms. Bela Singh, Advocate
For the Opposite Party	:	Mr. Amish Kumar, Advocate
For the State	:	Amitesh Kumar, APP

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CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD

ORAL JUDGMENT

Date: 06-09-2017

Heard learned counsel for the petitioners, learned counsel for the complainant/Opposite Party No. 2 as also learned Additional Public Prosecutor for the State.

2. The petitioners are seeking quashing of the order dated 20.09.2008, passed by learned Sub-Divisional Judicial Magistrate, East Muzaffarpur in Tr. No. 998/14, arising out of Complaint Case No. 900/2008, by which learned Sub-



Divisional Judicial Magistrate has taken cognizance under Section 498A of the Indian Penal Code read with Section 4 of the Dowry Prohibition Act and issued summons against these petitioners.

3. Earlier, when the matter was taken up, considering the nature of allegation in the complaint petition this Court vide order dated 16.08.2017 adjourned the matter at the instance of learned counsel for the Opposite Party No. 2 to seek instructions. Later on, vide order dated 23.08.2017, the matter was adjourned for one week to file a supplementary affidavit stating as to whether or not the petitioners and the husband of the complainant have surrendered in the present case.

4. Today, when the matter is called out, learned counsel representing the petitioners submits that although an affidavit could not be filed because his client did not reach in time but he has got instruction that these petitioners and the husband of the Opposite Party No. 2 have earlier surrendered and are on bail. He submits that the matter may be considered taking his statement as an officer of this Court as he has also got this fact confirmed from the learned



Advocate attending this case in court below.

5. Learned counsel for the Opposite Party No. 2 has no objection on this.

6. In these circumstances, instead of keeping the matter pending again, this Court is disposing of the present application.

7. The petitioners are father-in-law, mother-in-law, brothers-in-law and sisters-in-law who are seeking quashing of the order taking cognizance and issuance of summons as stated above.

8. Learned counsel for the petitioners submit that a bare perusal of the complaint petition would show that the marriage between the Opposite Party No. 2 and accused no. 1 (non-petitioner) was solemnized in the year 2000, and out of the said wedlock, two sons were also born. According to learned counsel for the petitioners, the present case has been filed in the year 2008 alleging that for not meeting the demand of motorcycle in dowry the accused persons were harassing the complainant/Opposite Party No. 2 in several ways. There is no specific allegation, so far as these petitioners are concerned, no role has been assigned to them



showing commission of any act causing torture or harassment to complainant/Opposite Party No. 2. Submission is that they have been implicated in the present case only because they happened to be closely related with the husband. It is further submitted that these petitioners are separate in mess and business and the filing of the complaint after eight years from the date of marriage itself suggests that the allegation of demand of dowry in a vague and general manner has been made just to implicate the full family.

9. Learned counsel representing the complainant /Opposite Party No. 2 has fairly submitted before this Court that his client is aggrieved by the harassment meted out to her by the husband. So far as the present petitioners are concerned, he has not got much grievance and in fact the only apprehension which the learned counsel expressed is that quashing of the order taking cognizance and issuance of summons against the present petitioners should not affect the case against the husband.

10. Learned Additional Public Prosecutor for the State accepts the factual position that the complaint petition does



not specify any role of the petitioners in the alleged act of harassment.

11. This Court has considered the submissions made at the bar and perused the records. A perusal of the complaint petition makes it clear that there are only vague allegations in the complaint petition against these petitioners. and no *prima facie* case is made out on a reading of the same.

12. This Court, therefore, set aside the impugned order dated 20.09.2008, in so far as it relates to the present petitioners only. It is made clear that the observations of this Court hereinabove, would not effect the merit of the case against the husband of the complainant/Opposite Party No. 2 and the order shall not be construed any other way to the benefit of the non-petitioner/accused.

13. This application is, accordingly, allowed.

(Rajeev Ranjan Prasad, J.)

Rajeev/-

AFR/NAFR	NAFR
CAV DATE	NA
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