

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.43199 of 2014

Arising Out of PS.Case No. -21 Year- 2014 Thana -EAST CHAMPARAN COMPLAINT District-
EASTCHAMPARAN (MOTIHARI)

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1. Akhlaque Khan Son of Abdul Hafiz Khan
 2. Abdul Hafiz Khan Son of Late Khalil Khan
 3. Fatila Khatoon Wife of Abdul Hafiz Khan
 4. Baby Daughter of Abdul Hafiz Khan
 5. Mannu Khan Son of Abdul Hafiz Khan
 6. Sannu Khan Son of Late Durga Sah
 7. Ibadat Khan Son of Tafique Khan All residents of village - Pakadia
Paithanpatti, P.S.- Darpa, District - East Champaran
 8. Faruque Khan Son of Rauf Khan
 9. Manir Khan Son of Late Shakur Khan Petitioner Nos. 8 and 9 residents of
village - Nakardei, P.S. - Sugauli, District - East Champaran

.... Petitioners

Versus

1. The State of Bihar
 2. Shahnaz Begum Wife of Akhlaque Khan and daughter of Sannaullah Khan
Resident of Village Pakadia Paithanpatti, P.S. Darpa, District East Champaran
- Opposite Parties

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Appearance :

For the Petitioners	:	Mr. Umesh Chandra Verma, Advocate
For the State	:	Mr. Jharkhandi Upadhyay, APP
For O.P. No.2	:	None

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CORAM: HONOURABLE MR. JUSTICE ARUN KUMAR

ORAL JUDGMENT

Date: 20-11-2017

The petitioners seek quashing of the cognizance order dated 06.08.2014, passed by Judicial Magistrate, 1st Class, Raxaul, East Champaran in Complaint Case No.C-21 of 2014 thereby taking cognizance of the offence under Sections 498A, 406, 323, 325 and 504/34 of the Indian Penal Code.

2. A short fact giving rise to the case is that complainant was married with Akhlaque Khan, petitioner no.1, in the year 2010 but after sometime her husband, petitioner no.1. father-in-law, petitioner no.2 and mother-in-law, petitioner no.3 started making further demand of



Rs.5,00,000/- in order to start a business by the husband, so in that connection she was tortured and assaulted by all accused persons intermittently. It is alleged that accused nos.8 and 9 were also instigating her husband and others to torture her. It is also alleged that once hot oil was thrown over her body and one day her husband assaulted her causing fracture in her hand and the mother-in-law and *Nanad* also assaulted after pulling her hair.

3. Learned counsel for the petitioners submits that the allegations against the accused persons are general and omnibus, in fact all family members have been made accused including even the distant relatives living in different villages, petitioner nos.8 and 9, too have been made accused in this case. Petitioner no.4 is unmarried *Nanad*, petitioner nos.5 and 6 are brothers of the husband, petitioner no.7 is a co-villager not related with the husband whereas petitioner nos.2 and 3 are father-in-law and mother-in-law.

4. Learned counsel appearing on behalf of the State submits that the allegation is not specific against petitioner nos.4 to 9.

5. Having considered the rival submissions and on perusal of record, the Court finds that the allegation of committing torture to meet demand of dowry is specific only against Akhlaque Khan, the husband-petitioner no.1, Abdul Hafiz Khan and Fatila Khatoon, father-in-law and mother-in-law, petitioner nos.2 and 3 respectively whereas the allegation against rest others, i.e., petitioner nos.4 to 9 are only sweeping in nature. There is only casual reference of their names in the complaint with regard



to demand of dowry and torture. There is complete lack of any specific allegation against these persons. Petitioner nos.8 and 9 are distantly related to the complainant's husband and living at a distant place to some other village, petitioner no.4 is unmarried *Nanad*, petitioner nos.5 and 6 are younger brothers of the husband of the complainant whereas petitioner no.7 is said to be a co-villager and not related with the husband.

6. Though cognizance order dated 06.08.2014 and the subsequent criminal proceedings against petitioner nos.4 to 9, namely, Baby, Mannu Khan, Sannu Khan, Ibadat Khan, Faruque Khan and Manir Khan are hereby quashed in connection with Complaint Case No.C-21 of 2014, pending in the court of Judicial Magistrate, 1st Class, Raxaul, East Champaran whereas the criminal proceeding will continue against petitioner nos.1 to 3, namely, Akhlaque Khan, Abdul Hafiz Khan and Fatila Khatoon, the husband, father-in-law and mother-in-law respectively against whom the allegation is specific.

7. Accordingly, the quashing application stands disposed of.

(Arun Kumar, J.)

S.Kumar/-

AFR/NAFR	NAFR
CAV DATE	NA
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