

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.7218 of 2014

Arising Out of PS.Case No. -13 Year- 2013 Thana -SURYAPURA District- SASARAM (ROHTAS)

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1. Harihar Prasad S/O Late Halkhor Sah
2. Smt. Umarawati Devi W/O Harihar Prasad
3. Manoj Kumar S/O Harihar Prasad
All resident of Village - Suryapura, P.S.- Suryapura, District- Rohtas.

.... Petitioner/s

Versus

1. The State Of Bihar.
2. Ranjita Devi D/O Jagdish Prasad
Resident of village - Dhanahara, P.S.- Kachchawa, District- Rohtas.

.... Opposite Party/s

with

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Criminal Miscellaneous No. 10870 of 2014

Arising Out of PS.Case No. -542 Year- 2011 Thana -ROHTAS COMPLAINT CASE District- SASARAM (ROHTAS)

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1. Harihar Prasad S/O Late Halkhor Sah
2. Smt. Umarawati Devi W/O Harihar Prasad
3. Manoj Kumar S/O Harihar Prasad
All Resident of Village -Suryapura, P.S. - Suryapura, District - Rohtas

.... Petitioner/s

Versus

1. The State Of Bihar
2. Ranjita Devi, D/O Jagdish Prasad, Resident of Village - Dhanahara, P.S. - Kachchawa, District - Rohtas

.... Opposite Party/s

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Appearance :

(In Cr.Misc. No.7218 of 2014)

For the Petitioner/s : Mr. Dineshwar Mishra, Advocate.
For the State : Mr. Ajay Kumar No. II, A.P.P.
For the O.P. No. 2 : Mr. Umesh Narayan Dubey, Advocate.
Mr. R.K.Pathak, Advocate.

(In Cr.Misc. No.10870 of 2014)

(In Cr.Misc. No.7218 of 2014)

For the Petitioner/s : Mr. Dineshwar Mishra, Advocate.
For the State : Mr. Ajay Kumar No. II, A.P.P.
For the O.P. No. 2 : Mr. Umesh Narayan Dubey, Advocate.
Mr. R.K.Pathak, Advocate.

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CORAM: HONOURABLE MR. JUSTICE ARUN KUMAR

ORAL JUDGMENT

Date: 16-10-2017



Heard learned counsel for the petitioners, learned counsel for the State as well as learned counsel for the O.P. No. 2.

2. Petitioners seek quashing of the cognizance order dated 11.11.2011 passed in Complaint Case No. 542 of 2011 as well as order dated 12.11.2013 passed in Suryapura P.S.Case No. 13 of 2013 (G.R. No. 81 of 2013) by the S.D.J.M., Bikramganj, Rohtas thereby taking cognizance of offence under Section 498-A of the Indian Penal Code in Complaint Case No. 542 of 2011 and under Sections 341, 323, 498-A of the Indian Penal Code and 3 and 4 of the Dowry Prohibition Act in Suryapura P.S.Case No. 13 of 2013 (G.R. No. 81 of 2013). As both the applications are co-related with the facts of the case, hence they are being disposed of by this common order.

3. Short fact giving rise to the case is that marriage of the complainant was solemnized with Manoj Kumar on 25.06.2007. The husband of the complainant was working in Assam Rifles. After marriage, her husband and in-laws started making demand of Rs. 50,000/- cash and they continued to torture in that connection. On 05.07.2011, after delivery of a female child, she went to Mizoram at the place where her husband was posted, due to intervention of the higher officials of Assam Rifles, and he agreed to keep her but after some time, again started torturing and when brother of the complainant went there, then her husband forcibly got her signature



on a blank sheet of paper and wrong facts were got written on that document thereafter she was driven out by her husband.

4. Learned counsel for the petitioners submits that in fact, complainant was kept by the husband at his place of posting but she started living in adultery with other constable and in absence of petitioner no.3, alleged constable was found in the family quarter of the petitioner no. 3 in night, in absence of him, while the said constable was being searched by a team of officers. In support of this contention, statement of Subedar Major in this regard is enclosed, which is Annexure-2 series. The said occurrence is dated 31.10.2011. Thereafter complainant's brother was informed by the superior officers of the petitioner no. 3, at that time petitioner no. 3 was on duty at the Indo-Myanmar Border in the forest area and the brother of the complainant, on 05.09.2011, came and brought back her sister and child to his home and thereafter this complaint case was lodged on 13.09.2011.

5. Learned counsel for the petitioners further refers Annexure-1 to the supplementary affidavit which is statement of Anil Kumar Gupta, brother of the complainant, examined before charge. In his cross-examination, he admitted that he himself brought back his sister from Assam Rifles to his home after giving acknowledgement to that effect and in that acknowledgement, he accepted that her sister



had illicit relation with others. In the said matter, on reconcilliation made in the court, petitioner no. 3, in order to give a chance, brought his wife back on 08.11.2012 but she started misbehaving him and on 18.01.2013 she lodged an FIR being Suryapura P.S.Case No. 13 of 2013 under Section 498-A as well as other sections of the Penal Code against the petitioners in which cognizance has been taken. The petitioner no. 3 has also filed a divorce suit thereafter.

6. Contrary to that, learned counsel for the O.P. No. 2 submits that forcibly, with the conspiracy of the husband along with other colleagues, an acknowledgement was got written by the complainant's brother to the effect that her sister was having illicit relation with some other constables and after reconcilliation in the complaint case, she was taken back by the husband but thereafter she was tortured and after beating her badly and making an attempt on her life, she was ousted from the matrimonial home and injuries were also found on her person as well as on the person of her little daughter.

7. Having considered rival submissions of both sides and on perusal of the record, I find that annexure filed by the petitioners in complaint case is not controverted by the complainant's side, in particular, documents annexed as Annexure -2 series, the letter of the Commandant of the Assam Rifles and the statement of Subedar Major, which are sterling documents, showing that complainant was



living in the family quarter of her husband at his place of posting at Lunglei, Mizoram and she was brought back by her brother on 06.09.2011 due to some other reason and thereafter on 13.09.2011, this complaint case was filed when she was brought back by her brother, the husband of the complainant was not present there rather he was posted at Indo-Myanmar border, far away from that place and the brother of the complainant Anil Kumar Gupta, in cross-examination before the court, also accepted that the reason for taking back his sister was that she was found in illicit relationship with some other person. So Complaint Case No. 542 of 2011 appears to have been filed by the complainant maliciously because on earlier occasion there was no any complaint or any information regarding torture in connection with further demand of dowry.

8. Therefore, in view of the aforesaid facts, the entire criminal proceeding in Complaint Case No. 542 of 2011 inclusive of the cognizance order dated 11.11.2011 pending in the court of S.D.J.M., Bikramganj, Rohtas is hereby quashed. Cr. Misc. No. 10870 of 2014 stands allowed.

9. As far as the FIR, i.e., Tripura P.S. Case No. 13 of 2013 is concerned, it is admitted position that after reconciliation in the first case, the complainant was brought by her husband at his native place on 08.11.2012 thereafter it is alleged that he started



making pressure to go out of the matrimonial home and in that connection they assaulted and it is alleged to have made an attempt on her life and on the life of her daughter. Police has submitted charge sheet in that case and the case diary shows that informant and her daughter also sustained injuries. So it's not a case that no ingredient of any offence is made out in the second case i.e., Tripura P.S.Case No. 13 of 2013 in which cognizance has been taken under Sections 323, 341 and 498-A of the Indian Penal Code and 3/4 of the Dowry Prohibition Act, hence Cr. Misc. No. 7218 of 2014 stands dismissed.

(Arun Kumar, J)

Sujit/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	
Transmission Date	

