

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.15945 of 2014

Arising Out of PS.Case No. -1780 Year- 2013 Thana -GOPALGANJ COMPLAINT CASE District-
GOPALGANJ

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1. Ayub Khan, Son Qum Khan
2. Qum Khan, Son Of Saheb Khan
3. Akhatulnisha, Wife Of Qum Khan
All Are Residents of Salempur, P.S. Raghunathpur, District Siwan
4. Asagar Ali, Son Of Skh. Idarish, R/O Village-Baluaguma Rai Ka Tola,
P.S. Hathua, District-Gopalganj

.... Petitioners

Versus

1. The State Of Bihar
2. Alauddin Khan, Son Of Late Harun Khan, R/O Sukhasenwa, P.S. Kateya,
District Gopalganj

.... Opposite Parties

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Appearance :

For the Petitioners : Mr. Chandra Kant, Advocate
: Mr. Navin Kumar, Advocate
For the State : Mr. Jharkhandi Upadhyay(App)
For the Opposite Party : Md. Sufiya, Advocate

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CORAM: HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH
ORAL ORDER

- 6 01-11-2017 1. The present petition has been filed against the order dated 23.01.2014 passed by the learned Judicial Magistrate, Gopalganj in Complant case no. 1780 of 2013 and Criminal case complaint (P) no. 3501 of 2013 whereby and whereunder cognizance has been taken against the petitioners for the offences punishable under Section 498A of Indian Penal Code.
2. The short facts of the case are that a complaint petition dated 10.07.2013 was filed by the opposite party no. 2 i.e. the father of the wife of the petitioner no. 1 *inter alia* alleging therein that the petitioners no. 1 to 3 have been making continuous



dowry demand and on account of non-fulfilment of the same, have not only been abusing but also beating the victim girl i.e. the wife of the petitioner no. 1. It has been further alleged that the jewellerys and ornaments brought by the victim girl has also been kept by the petitioners no. 1 to 3 and she has been kicked out of her matrimonial house.

3. The learned Judicial Magistrate, Gopalganj by an order dated 23.01.2014 has been pleased to take cognizance against the petitioners for the offence punishable under Section 498A of Indian Penal Code.

4. The learned counsel for the petitioners has argued that a bare perusal of the complaint petition would show that no case is made out against the petitioners inasmuch as general and omnibus allegations have been made against them. It has been further argued by the learned counsel for the petitioners that as far as petitioner no. 4 is concerned, he has got nothing to do with the present case and a bare perusal of the complaint petition would show that no allegation whatsoever has been levelled against him. The learned counsel for the petitioner has relied on a judgment reported in **2013 vol.1 PLJR page 10** and in particular, paras 19 and 20 of the said judgment to contend that if no case is made out upon perusal of the complaint petition and if all the family



members and relatives as well as well-wishers are roped in the case, it gives a presumption that the case has been lodged in a malafide manner and is liable to be quashed.

5. *Per contra*, the learned counsel for the informant has argued that a bare perusal of the complaint petition would show that there is specific allegation of demand of dowry as against the petitioners no. 1 to 3 however, the learned counsel concedes that as far as petitioner no. 4 is concerned, there is no direct allegation against him. It is further contended by the learned counsel for the informant that the petitioners had filed Cr.Rev. no. 326 of 2014 before the Sessions Judge, Gopalganj however, the same has been subsequently withdrawn. It is further submitted that this Hon'ble Court vide order dated 18.11.2014 had referred the matter to the Mediation Centre and the matter was also resolved by the Mediator which would be apparent from the report dated 03.03.2015 sent by the Mediation cell however, the petitioners resiled from the settlement.

6. Having regard to the facts and circumstances of the case, I find that specific allegation of demand of dowry has been leveled against the petitioners no. 1 to 3 and moreover, even after entering into a settlement before the learned Mediator authorized by this Court, they have resiled from the same subsequently which



further goes to show the conduct of the petitioners however, no allegation whatsoever has been levelled against the petitioner no. 4, as accepted by the learned counsel for the informant.

7. In the above view of the matter, the present petition is allowed in part and Complaint case no. 1780 of 2013/ Criminal case complaint (P) no. 3501 of 2013 as well as the order dated 23.01.2014 passed in the said complaint case are quashed as against petitioner no. 4 however, it is directed that the aforesaid Complaint case will proceed as against the petitioners no. 1 to 3.

8. It is further clarified that the observations made hereinabove in the present order shall not cause any prejudice to the petitioners no. 1 to 3 in the ongoing proceedings before the learned trial court.

9. The present petition is disposed of in the aforesaid terms.

(Mohit Kumar Shah, J.)

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