

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.43467 of 2014

Arising Out of PS.Case No. -286 Year- 2012 Thana -MUNGER COMPLAINT CASE District -
MUNGER

- =====
1. Sunil Kumar Rai son of Late Shri Mahto
 2. Rajesh Kumar Rai son of Sunil Kumar Rai
 3. Sarojani Devi Wife of Sunil Kumar Rai
 4. Raj Kumar Rai @ Budhi son of Sunil Kumar Rai
 5. Poonam Devi Wife of Budhi @ Raj Kumar Rai All resident of Mohalla
- Bekapur Gola Road, Police Station - Kotwali, District - Munger

.... Petitioners

Versus

1. The State of Bihar
2. Kiran Kumari Rai Wife of Rajesh Kumar Rai, D/o Yogendra Prasad
Singh resident of Mohalla - Bekapur Gola Road, Police Station
Kotwali, District - Munger present resident at Sadar Bazar Khalasi
Mohalla Jamalpur, P.S. Jamalpur, Distt. - Munger

.... Opposite Party

=====

Appearance :

For the Petitioners : Mr. Ram Sevak Choudhary
For the State : Mr. Ajay Kumar –I, APP
For the O.P. : Mr. Rajesh Kumar

=====

CORAM: HONOURABLE MR. JUSTICE ARUN KUMAR
ORAL ORDER

4 15-12-2017 Heard learned Counsel for the petitioners as well as the
learned Counsel for the State.

The petitioners seek quashing of the cognizance order dated
5.5.2014 passed by learned SDJM Munger in Complaint Case No.
286(C) of 2012, thereby taking cognizance of the offence under
Section 498A/34 of the IPC and issued summons against them to stand
trial.

The fact giving rise to the present case is that on 8.7.1997
marriage of the complainant was solemnized with Rajesh Kumar Rai
and One Lakh rupees cash was given in dowry at the time of marriage.



After marriage the accused persons started making further demand of TV and motorcycle which was given by father of the complainant. Again they started making demand of one lakh rupees cash. A girl child was also born after a year of the marriage but on account of not meeting the demand she was ousted from the matrimonial home by the accused persons, so she filed Complaint Case No. 546(C) of 2004 under Section 498A of the IPC in the Court. Latter, on assurance of not torturing further she compromised the matter. Thereafter she was taken to Hyderabad and Jaigaon where her father-in-law is employed in Transport Company and petitioner Nos. 3, 4 and 5 also live there, whereas her husband lives at Jehanabad where he is employed in Bihar State Electricity Board, where he used to assault and torture her further on the instigation of other accused persons and he forcibly took her signature on 23.8.2011 and the father-in-law and mother-in-law made attempt to set fire on her body, anyhow she escaped and thereafter the present complaint was filed.

Learned Counsel for the petitioners submits that the complainant is in habit of instituting case under Section 498A IPC repeatedly, she filed earlier complaint case in the year 2004 before that petitioner No. 2 had filed a case in the Family Court for restitution of conjugal rights under Section 9 of the Hindu Marriage Act, however latter the matter was compromised by both sides so both the cases were withdrawn. Thereafter the complainant filed the present case and the petitioner No. 2 also filed a divorce suit latter on and on the basis



of compromise the divorce suit was dismissed and the wife also agreed to withdraw her⁴ case as it is reflected from the order dated 12.6.2013 passed by the Family Court in Matrimonial Suit No. 8 of 2012 but the wife retracted and is pursuing the complaint. Learned Counsel further submits that as far as petitioner Nos. 1 and 3 the father-in-law and mother-in-law, petitioner No. 4 is brother of the husband and his wife is petitioner No. 5 are concerned, they all reside at Jaigaon in Siliguri, West Bengal, whereas the complainant used to reside with her husband Rajesh Kumar Rai, petitioner No. 2, who is employee in the Bihar State Electricity Board, Jehanabad, so they live at a distant place from the in-laws and other family members and the marriage took place in the year 1997. So only because they are family members they have been implicated in this case by referring their names.

Contrary to that learned Counsel appearing on behalf of the complainant submits that there is allegation against the in-laws also and the court below has rightly taken cognizance against them.

Having considered the rival submission and on perusal of the record the Court finds that the marriage of the complainant was solemnized with Rajesh Kumar Rai (petitioner No. 2) two decades back in the year 1997 and it is evident from the complaint that the petitioner NO. 2 resides at Jehanabad in Bihar, where he is employed in Bihar State Electricity Board, whereas his parents, brother and his wife reside at Jaigaon, Siliguri West Bengal. So mere casual reference of their names appear in the complaint petition. So prima facie case is



not made out against petitioner Nos. 1, 3, 4 and 5, hence entire criminal proceeding inclusive of the cognizance order dated 5.5.2014 passed in Complaint Case No. 286(C) of 2012 is hereby quashed with respect to petitioner Nos. 1, 3, 4 and 5 namely Sunil Kumar Rai, Sarojani Devi, Raj Kumar Rai @ Budhi and Poonam Devi. However, the criminal proceeding against Rajesh Kumar Rai (Petitioner No. 2), the husband, will proceed further in accordance with law.

The application stands disposed of.

(Arun Kumar, J.)

Snkumar/-

U		T	
---	--	---	--

