

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.8147 of 2014

Arising Out of PS.Case No. -2488 Year- 2012 Thana -DARBHANGA COMPLAINT CASE
District- DARBHANGA

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1. Raj Kumar Agrawal, Son of Late Govardhan Das Agrawal
 2. Urmila Devi @ Urmila, Wife of Raj Kumar Agrawal,
 3. Manoj Kumar Agrawal, Son of Raj Kumar Agrawal,
 4. Uma Devi Agrawal @ Uma Agrawal, Wife of Manoj Kumar Agrawal, All Residents of village and Post- Kusheshwar Asthan, Police Station- Kusheshwar Asthan, District- Darbhanga
 5. Punam Devi @ Punam Devi Chand, Wife of Mahesh Chand, Resident of Village- Hasanpur, Police Station- Hasanpur, District- Samastipur
 6. Sanjeet Kumar Agrawal, Son of Raj Kumar Agrawal, Presently Residing At B/904, Ashirvad Park, City Light, Surat, Police Station- Umra, District- Surat, Gujrat

.... Petitioner/s

Versus

1. The State of Bihar
2. Mukta Agrawal, Daughter of Vijay Kumar Sarraf, Resident of village- New Bahadurpur, Police Station- Laheriasarai, District- Darbhanga, Presently residing At F/303, Green Vista, Atghora, Rajar Hat, Kolkata, West Bengal

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Sandeep Kumar, Advocate.
Mr. Chandra Mohan Jha, Advocate
Mr. Dhananjay Singh, Advocate.

For the State : Mr. Rabindra Kumar, A.P.P.

For the O.P. No. 2 : Mr. Suraj Narain Yadav, Advocate.
: Mrs. Annu Shree, Advocate.

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CORAM: HONOURABLE MR. JUSTICE ARUN KUMAR

ORAL JUDGMENT

Date: 09-08-2017

Heard learned counsel for the petitioners as well as learned counsel appearing on behalf of the O.P. No. 2 and the State.

2. This application has been filed by the petitioners seeking exercise of inherent jurisdiction of this Court, under Section 482 of the Cr.P.C., 1973, for setting aside order dated 21.12.2013



passed by the Sub Divisional Judicial Magistrate, Darbhanga in Complaint Case No. 2488 of 2012 (T.R. No. 3914 of 2013) whereby he has taken cognizance of offence under Sections 498A and 386 of the Indian Penal Code as well as Sections 3 and 4 of the Dowry Prohibition Act.

3. Brief facts, as narrated in the complaint, is that at the time of marriage of the complainant with the petitioner no. 6 on 11.05.2015, articles and cash by way of dowry was given to the accused side, thereafter, she along with her husband went to Hyderabad who was posted there. The husband used to threaten her for demand of further dowry and tortured her, so she returned back to her parents home. Again she was taken by her husband at Hyderabad but again started torturing her. Further allegation is that her husband used to torture her at the instigation of other family members and ultimately she was forced to leave matrimonial home.

4. Learned counsel for the petitioners submits that there is no specific allegation of demand of dowry and torture against the petitioners, except husband-petitioner no. 6. He submits that the husband and wife both are Chartered Accountants, and due to their differences towards the attitude of their life, conjugal relationship deteriorated and wife also deserted him, so he filed a divorce suit in the year 2010 and it got transferred on the application of the wife to



Muzaffarpur Family Court, being Matrimonial (Divorce) Case No. 29 of 2011, and after filing of the divorce suit, the present complaint was filed by the wife. He submits that in said matrimonial suit, judgment was delivered on 09.12.2015 by the Principal Judge, Family Court, Muzaffarpur and on condition the decree of divorce has been passed though it's a peculiar judgment in the sense that the court has given its finding that both sides have committed cruelty to each other accepting ground of desertion.

5. Learned counsel for the petitioners placed reliance in a case of *Neelu Chopra and Anr. vs. Bharti* reported in (2009) 10 SCC 184 and *Preeti Gupta and Anr. v. State of Jharkhand and Anr.* reported in (2010) 7 SCC 667.

6. Whereas, learned counsel appearing on behalf of the O.P. No. 2 submits that there is allegation against all the accused persons so there is no any occasion to interfere with the cognizance order.

7. Having considered the rival submissions and on perusal of record, this Court finds that allegations levelled against in-laws, i.e., father-in-law, mother-in-law, elder brother of the husband and his wife and married *Nanad* of the complainant, are general, omnibus and sweeping in nature regarding demand of dowry and torture. There is not even a specific instance relating to act of torture committed by



these petitioners. It appears that specific allegation is only against the husband-petitioner no. 6, moreover finding the case of desertion, decree of divorce has been passed.

8. Hence, keeping in view the said fact, I find that continuation of criminal proceeding against the petitioner nos. 1 to 5, i.e., father-in-law, mother-in-law, brother of the husband and his wife and married *Nanad*, would be an abuse of the process of the court. Therefore, the entire criminal proceeding including the cognizance order dated 21.12.2013 passed in Complaint Case No. 2488 of 2012 (T.R. No. 3914 of 2013) against the petitioner nos. 1 to 5 is set aside.

9. So far as petitioner no. 6 (husband) is concerned, there is specific allegation against him and *prima facie* case under Section 498A of the Indian Penal Code is made out against him.

10. Accordingly, this application is partly allowed.

(Arun Kumar, J)

Sujit/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	29.08.2017
Transmission Date	29.08.2017

