

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.6178 of 2015

Arising Out of PS.Case No. -2220 Year- 2012 Thana -PATNA COMPLAINT CASE District-
PATNA

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Smt. Sunita Devi, W/o Sri Anjay Kishore Prasad, D/o Sri Krishna Deo Prasad, R/o
- 4/34, ONGC Colony, New Magdalla, Dumas Road, Surat - Gujrat.

.... Petitioner/s

Versus

1. The State of Bihar.
2. Smt. Sunita Kumari, W/o Ashwini Kumar, D/o Sri Nand Lal Sao Mohalla -
Karbigahia, P.S. Jakkanpur, Town & District - Patna.

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Saroj Kumar Sharma, Advocate.
Smt. Kiran Kumari Sharma, Advocate.

For the Opposite Party/s : Mr. Sanjay Kumar Sharma, APP

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CORAM: HONOURABLE MR. JUSTICE ARUN KUMAR

ORAL JUDGMENT

Date: 01-12-2017

Heard learned counsel for the petitioner and learned
counsel for the State. None appears on behalf of O.P. No. 2.

2. Petitioner seeks quashing of cognizance order dated
28.02.2013 passed by the learned Sub Divisional Judicial Magistrate,
Patna in Complaint Case No. 2220 of 2012 thereby taking cognizance
of offence under Section 498A of Indian Penal Code as well as
Sections 3 and 4 of the Dowry Prohibition Act and issued summons to
stand trial.

3. A brief fact giving rise to the case is that complainant
got married in year 2001 with Ashwini Kumar, who was working in



some private organization as a Computer Engineer in New Delhi. He left the job after marriage and returned back to Patna and made demand of Rs. 3 lacs from her father for doing business in computer. It is alleged that all accused persons supported him; any how father of the complainant had given Rs. 3 lacs to her husband. Later on, she gave birth to a female child so all started making comment and petitioner, married Nanad, is said to have tortured her on mobile on account of giving birth to a female child.

4. Learned counsel for the petitioner submits that petitioner is a married *Nanad* and she was married way back in the year 1991 and it is admitted position that she has been living in Gujarat as her husband is employed in ONGC there, she does not reside either with the complainant or her brother, so only sweeping and bald allegation is levelled against her that too not by making any demand of dowry. The allegation is that she used to make comment for giving birth to a female child. He places reliance in the case of ***Geeta Mehrotra & Anr. vs. State of U.P. & Anr.*** reported in ***2013(1)PLJR 10 (SC)***.

5. Contrary to that, learned counsel for the State submits that there is allegation against the petitioner also.

6. Having considered the rival submissions and on perusal of record, the Court finds that petitioner is a married *Nanad*



and she was married much prior to the marriage of the complainant and living at distant place in Gujarat. There is no any specific allegation against her, except sweeping allegation that too against giving birth to a female child. There is absence of any allegation with regard to making demand of dowry and torture or harassment in that connection. The case of the petitioner is squarely covered with the principle laid down in the case of **Geeta Mehrotra** (supra). So allegation levelled in the complaint does not disclose the basic ingredient of the offence under Section 498A of I.P.C. as well as Sections 3 and 4 of the Dowry Prohibition Act. In such a situation, continuation of criminal proceeding against the petitioner would be an abuse of process of the court.

7. Accordingly, the entire criminal proceeding inclusive of cognizance order dated 28.02.2013 passed by the learned S.D.J.M., Patna in Complaint Case No. 2220 of 2012 is hereby quashed with respect to the petitioner only.

8. The application stands allowed.

(Arun Kumar, J)

Sujit/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	23.12.2017
Transmission Date	23.12.2017

