

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.41670 of 2016

Arising Out of P.S.Case No. -378 Year- 2014 Thana -BIHTA District- PATNA

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1. SABIHA KHATOON @ SANITA KHATOON, wife of Noorshid Alam
 2. Noorshid Alam @ Md. Narshid Alam, son of Late Abdul Rashid Both are resident of Mohalla- Boro Airport, Post Office- Pachamba, P.S. Giridih, District Giridih, State- Jharkhand.

.... Petitioners

Versus

1. The State of Bihar
2. Nahid Anjum, Daughter of Md. Abul Khoir, Resident of Village- Shrfuddinpur, P.S. Bihta, District- Patna.

.... Opposite Parties

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Appearance :

For the Petitioners	:	Mr. Md. Ataul Haque, Advocate
For the Opposite Party No.2	:	Mr. Rakesh Kumar, Advocate
For the State	:	Mr. Mukeshwar Dayal, APP

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CORAM: HONOURABLE MR. JUSTICE SANJAY KUMAR

ORAL JUDGMENT

Date: 08-09-2017

This criminal miscellaneous application under Section 482 of the Cr.P.C. has been filed to quash the order dated 15.06.2016 passed by learned SDJM, Danapur in Bihta P.S.Case No.378 of 2014 whereby and whereunder the learned Magistrate finding prima-facie case for the offence under Section 498A of the IPC and 3/4 of the Dowry Prohibition Act took cognizance of offence and summoned the petitioner and other co-accused.

2. Heard and perused the record.

3. The petitioners are parents of the husband of the informant (Opposite Party No.2). The informant lodged an FIR with Bihta police station alleging inter-alia that she was married with the son of the petitioners on 01.04.2013. The husband was posted at Probationary Officer in Canara Bank at Jadavpur, Kolkata. At the time of marriage, the parents of informant had given



cash amount of Rs.10,00000/- besides ornaments weighing 150 grams. After marriage she visited at her matrimonial house at Giridih where her husband in-laws started torturing and assaulting her in connection with a demand of car and cash amount of Rs.5,00000/-. The family members of the informant tried to pacify the matter and but to no effect. She was compelled to go back at her parents place where she gave birth of a female child. The family members gave information about the birth of female child to the husband of the informant and his family members whereupon they again demanded cash amount and hurled threat and abused over phone on several occasion. They threatened the informant that her husband would be married with another girl if the demand was not fulfilled. The matter was investigated and police submitted chargesheet against the husband and these petitioners. The learned Magistrate after perusing the case diary found prima-facie and accordingly summoned the petitioners.

4. The learned counsel for the petitioners submits that these petitioners are parents of the husband of the informant and they have no concern with the affairs of informant or her husband. The husband has divorced the informant by pronouncing Talak. The husband had filed a Matrimonial Suit No.206 of 2014 in the Court of Principal Judge, Giridih (Jharkhand). The said divorce suit has been decreed and the divorce has been confirmed against the informant. The informant has also filed a Matrimonial case and she is getting maintenance from the husband to the tune of Rs.7500/- per month. It has been further submitted that the petitioners are resident of Jharkhand where the informant was residing with her husband. The court of Bihar has no jurisdiction to entertain the case of the informant. The learned Magistrate without applying judicial mind has taken cognizance in mechanical manner and so the order is fit to be quashed.



5. The learned APP as well as Opposite Party No.2 opposed the submissions.

6. On perusal of complaint petition and documents on record, I find that the petitioners are parents of the husband of the informant. The marriage of the informant took place on 01.04.2013 and she has been blessed with a female child. It has been specially alleged that her husband and his parents who are petitioners before this Court started demanding Rs.5,00000/- and a car when she visited at their place. She was tortured and assaulted on several occasion. They sent the informant at her father's place. It has further been alleged at the place of her parents also they used to torture the informant by abusing/hurling threat. They used to make telephonic call to demand the money as further dowry. The allegation of abusing and assaulting is specific against the petitioners. The husband is Probationary Officer and after few days of marriage, her husband and these petitioners started torturing her. The learned Magistrate has rightly taken the cognizance against the petitioner on the basis of specific allegation.

7. In view of above facts, I do not find any illegality in the impugned order taking cognizance against these petitioners and other co-accused. This application is devoid of merit and is accordingly dismissed.

(Sanjay Kumar, J)

B.Kr./-

AFR/NAFR	NAFR
CAV DATE	
Uploading Date	12.09.2017
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