

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.49441 of 2016

Arising Out of PS.Case No. -984 Year- 2015 Thana -PATNA COMPLAINT CASE District-
PATNA

- =====
1. Uday Rai @ Uday Prasad son of Late Gopal Rai, resident of village- Khaspur, P.S.- Maner District- Patna at present resident of Talegaon Road, Kharabwadi, Pawar Wasti, Chakan, Tal-khed, District-Pune, Maharashtra.
 2. Satish Kumar Son of Lalan Singh
 3. Sonam Kumari W/o Satish Kumar, Both resident of Village- Harnichak, P.S. Fulwari Sharif, District- Patna.

.... Petitioner/s

Versus

1. The State of Bihar
2. Priti Devi D/o. Ram Janam Singh resident of Village-Jethuli, P.S.- Fatuha, District-Patna.

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Ashok Kumar Sinha
Mr. Sudhir Kumar Sinha
For the Opposite Party/s : Mr. Jitendra Kumar Singh, APP

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CORAM: HONOURABLE MR. JUSTICE SANJAY KUMAR

ORAL JUDGMENT

Date: 31-08-2017

This application under Section 482 of the Code of Criminal Procedure has been filed to quash the order dated 04.02.2016 passed by the learned Judicial Magistrate, 1st Class, Patna City, District-Patna in Complaint Case No. 984 of 2015 whereby and whereunder the learned Magistrate finding prima facie case for the offence under Section 498-A of the Indian Penal Code against the husband and under Sections 323, 504/34 of the Indian Penal Code against these petitioners and the husband, ordered for issuance of summons against them on filing requisites.



2. Heard both sides.

3. The petitioners are in-laws of the complainant. The Opposite Party No. 2 filed a complaint case against these petitioners and other co-accused alleging inter alia that they abused, tortured the complainant and ousted from their house as the demand of dowry was not fulfilled.

4. The learned counsel for the petitioners submits that these petitioners had or have no concern with the affairs of the complainant or her husband. The petitioner No. 1 is the son of Gopal Rai having his residence at village Khaspur, P.S.-Maner, District-Patna. The father of the petitioner No. 1 was murdered. After the death of father of the petitioner No. 1, his mother namely, Gaytri Devi married with Bishwanath Prasad Singh, who is the father of the husband of the complainant. The petitioner No. 1 was patronized by the maternal family and in the year 2000, he has finally settled at Pune (Maharashtra) along with his wife and children where he has business of roadways. The petitioner No. 1 has no concern with the husband of the complainant or his family. The petitioner Nos. 2 and 3 are brother-in-law and married sister of the husband of the complainant. They are also residing at village Harnichak P.S.-Fulwarisharif, District-Patna. None of the petitioners had any occasion to stay at the place of the complainant or her in-laws. The



allegation against the petitioners is vague and no offence as alleged is made out against the petitioners and so, the cognizance order is fit to be quashed.

5. The learned APP for the State, on the other hand, opposed the submission.

6. On perusal of complaint petition and impugned order, I find that the allegation of abusing and assaulting is not specific against the petitioners. The complainant has alleged that all the petitioners used to torture and assault her. The petitioners have denied any manner of concern with the family of her husband. He is son of different person, who is stranger to the family of the husband of the complainant. The petitioner Nos. 2 and 3 are Nandosi and Nanad of the complainant and they are also residing at different place. The allegation of abusing and assaulting appears omnibus.

7. In this regard, I would like to refer the cases of Neelu Chopra Vs. Bharti (2009) 10, SCC 184. Geeta Mehrotra and others Vs. State of UP & others (2012) 10 SCC page 741, 2013(2) PCCR 210 (S.C.) and Preeti Gupta & others Vs. State of Jharkhand & others (2010) 7, SCC page 667 wherein the Hon'ble Apex Court has reiterated that in absence of specific allegation and prima facie case against co-accuseds, the order taking cognizance will be bad in law and that will be an abuse of process of court.



8. In view of the above facts, the order dated 04.02.2016 passed by the learned Judicial Magistrate, 1st Class, Patna City, District-Patna in Complaint Case No. 984 of 2015 taking cognizance against these petitioners for the offence under Sections 323 and 504/34 of the Indian Penal Code is quashed and this application is allowed.

(Sanjay Kumar, J)

ajay gupta/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	05.09.2017
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