

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.31101 of 2014

Arising Out of PS.Case No. -908 Year- 2012 Thana -MADHEPURA COMPALINT CASE District-
MADHEPURA

- =====
1. Md. Gulab Son of Md. Insul
 2. Md. Insul Son of late Md. Gouri Both are Resident of village- Chakla, Ward No.-
4, P.S.- Banmankhi, District- Purnea

.... Petitioners

Versus

1. The State of Bihar
2. Bibi Hushanbano W/o Md. Mister Akbar, D/o Md. Allauddin r/o vill.- Jotauli,
Gulab Tola, P.S.- Bihariganj, Distt.- Madhepura

.... Opposite Parties

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Appearance :

For the Petitioners	:	Mr. Dinesh Prasad Verma, Advocate
For the Informant	:	Mr. Nafisuzzoha, Advocate
For the State	:	Ms. Gulnar Begam, A.P.P.

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CORAM: HONOURABLE MR. JUSTICE ARUN KUMAR

ORAL JUDGMENT

Date: 04-07-2017

The petitioners have challenged the order taking cognizance dated 01.04.2013 under Sections 498A and 323 of the Indian Penal Code passed by S.D.J.M., Madhepura in Complaint Case No.908 of 2012.

2. Learned counsel appearing on behalf of the petitioners submits that the petitioners are brother-in-law and father-in-law of the complainant. It is admitted position that marriage of the complainant was solemnized 15 years back with Md. Mister @ Akbar, who is not petitioner in this case. The allegation against the petitioners is not specific with



regard to demand of any further dowry or torture in that connection. The only allegation is that for conciliation between the husband and wife panchayati was held in which they participated. Learned counsel for the petitioners had relied on decision of **Geeta Mehrotra & Anr. Vs. State of U.P. & Anr.** report in **2013(1) PLJR 10 SC.**

3. Learned counsel appearing on behalf of the complainant-opposite party no.2 submits that there is allegation that all the accused persons used to assault the complainant due to protest raised by her as husband was having illicit relationship with one Bibi Nuresha Khatoon.

4. Having considered rival submission of both sides and on perusal of record, it appears that the complainant was married 15 years ago with Md. Mister @ Akbar though there is allegation against husband that for last two years, he is living in illicit relationship with one Bibi Nuresha Khatoon for which she used to protest. However, there is no specific allegation against these two petitioners of making demand of further dowry and torture in that connection, so the continuation of criminal proceeding against these two petitioners would be abuse of the process of the Court as no prima facie case under Section 498A is made



out against them, so the impugned order of cognizance dated 01.04.2013 only with respect to these two petitioners and subsequent criminal proceeding against them is set aside.

5. Accordingly, this quashing petition stands allowed.

(Arun Kumar, J)

N.H./-

AFR/NAFR	NAFR
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