

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.17722 of 2014

Arising Out of PS.Case No. -1465 Year- 2013 Thana -BEGUSARAI COMPLAINT CSAE District-
BEGUSARAI

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1. Ganesh Prasad Sinha, s/o late Shiv Chandra Prasad Sinha
2. Gayatri Devi, w/o late Shiv Chandra Prasad Sinha
3. Renu Kumari, d/o late Shiv Chandra Prasad Sinha
4. Reena Kumari, d/o late Shiv Chandra Prasad Sinha
5. Kanchan Kumari, d/o Late Shiv Chandra Prasad Sinha
All R/o Mohalla Rajendra Nagar, Madhubani (Dhobiya Tola), P.S. Khajanchi Hat,
District Purnea.

.... Petitioner/s

Versus

1. The State of Bihar.
2. Raj Rani Verma, d/o late Tapeswar Nath Bariyar, r/o Station Road, Mali Tola,
P.S. Nagar, District Begusarai.

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Aditya Shankar, Advocate
Mr. Sanchay Srivastava, Advocate.
Mr. Ravi Prakash, Advocate
Mr. Saurav Suman, Advocate.
Dr. Bidhu Ranjan, Advocate.
Mr. Niraj Kumar, Advocate.
For the Opposite Party/s : Mr. Binod Kumar, A.P.P.

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CORAM: HONOURABLE MR. JUSTICE SANJAY PRIYA

ORAL JUDGMENT

Date: 13-10-2017

1. This application under Section 482 of the Code of Criminal Procedure has been filed for quashing the order dated 22.03.2014 passed by the learned Sub Divisional Judicial Magistrate, Begusarai, in Complaint Case No. 1465 of 2013 by which the learned Magistrate after holding enquiry has found *prima facie* case against the petitioners for the offences under Sections 498A, 323, 379/34 of the Indian Penal Code and Section 4 of the Dowry Prohibition Act.



2. The complainant has alleged in the complaint petition that her marriage was solemnized with Ganesh Prasad Sinha (petitioner No.1) on 11.05.2003. At the time of marriage, sufficient dowry was given by her father as mentioned in the complaint petition to the family of the petitioners. After marriage, the complainant went to her Sasural where she stayed for a period of nine days peacefully and came back to her Maikey. After two months, her husband (petitioner No.1) came and brought her to matrimonial home after performing Bidaigiri. On 11.04.2004 from their wedlock, the complainant was blessed with a male child in her Maikey. She informed about the birth of child to her sasural, but none has turned up. The petitioner No. 1 started pressuring to bring Rs.1,00,000/- from her parents to run his business, otherwise, she would be ousted from the matrimonial home along with the child.

3. Heard learned counsel for the petitioners and learned counsel for the State.

4. Learned counsel for the petitioners has submitted that Matrimonial Case No. 53 of 2016 was filed under Section 9 of the Hindu Marriage Act and ex-parte decree was passed in favour of the petitioner on 31.08.2007. The complainant did not comply the aforesaid order. Thereafter, Matrimonial Execution Case 1 of 2010 was filed for enforcing the decree dated 31.8.2007 by petitioner No. 1. The notice has been sent to the opposite party No. 2 by the court below but she refused to take the notice and, hence, Execution Case was disposed off on 8.4.2010. Thereafter, the petitioner No. 1 has filed Divorce Suit bearing Matrimonial



Case No. 102 of 2013 against the wife under Section 13 (ib) [(1-A) (ii)] of the Hindu Marriage Act.

5. In the instant case notice was issued to the opposite party No. 2 which was validly served as would appear from the order dated 07.09.2015 passed by a coordinate Bench of this Court, but today none has appeared on behalf of the opposite party No. 2 during hearing of this application.

6. Petitioner No. 1 is husband of the complainant, petitioner Nos. 2, 3, 4 and 5 are brother-in-law and Nanad of the complainant.

7. Learned counsel for the petitioners has submitted that the instant complaint has been filed by the complainant to harass the petitioners after filing Divorce case vide Matrimonial Suit No. 102 of 2013.

8. In the complaint petition, this Court finds that there is specific allegation of overt act against the husband (petitioner No. 1) of committing physical and mental torture with the complainant. It further appears that petitioner No. 1 (husband) on the one hand submits that he wants to keep his wife (opposite party No.2) with him, for which, a petition under Section 9 of the Hindu Marriage Act has been filed and on the other hand, he has filed Divorce Case vide Matrimonial Suit No. 102 of 2013.

9. So far as allegation against petitioner Nos. 2 to 5 is concerned, they are family members of the husband of the informant and there is general and omnibus allegation against them. From the complaint



petition itself it appears that they have no concern with the affairs between the complainant and her husband (petitioner No. 1).

10. Therefore, the impugned order dated 22.03.2014 passed by the learned Sub Divisional Judicial Magistrate, Begusarai, in Complaint Case No. 1465 of 2013 along with Criminal Proceeding with regard to petitioner Nos. 2 to 5 is hereby quashed.

11. So far impugned order dated 22.03.2014 with regard to the husband (petitioner No. 1) is concerned, this Court does not find any illegality in the order. The court below will proceed in the case against petitioner No. 1 in accordance with law.

12. This Criminal Miscellaneous application is accordingly allowed in part.

(Sanjay Priya, J)

S.Ali/-

AFR/NAFR	AFR
CAV DATE	N.A
Uploading Date	24/10/2017
Transmission Date	24/10/2017

