

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.40860 of 2013

Arising Out of PS.Case No. -2989 Year- 2011 Thana -PATNA COMPLAINT CASE District-
PATNA

- =====
1. Anil Kumar Verma Son Of Late Chhote Lal Verma Residents Of Flat No. 303, Om Residency, New Chtiragupta Nagar, Parwati Path, Kankerbagh P.S.- Patrakar Nagar, Dist-Patna
 2. Sulochana Verma Wife Of Anil Kumar Verma Residents Of Flag No. 303, Om Residency, New Chtiragupta Nagar, Parwati Path, Kankerbagh P.S.-Patrikar Nagar, Dist-Patna

.... Petitioner/s

Versus

1. State Of Bihar
2. Nupur Singh Wife Of Sri Avinash Kumar Verma, Daughter Of Sri Pramod Kumar Present Residing At House No. F/4, Indrapuri Path, Saristabad Road P.S.S-Gardanibag, Dist.-Atn

.... Opposite Party/s

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Appearance :

For the Petitioner/s	:	Mr. Rajan Ghoshrave
For the Opposite Party/s	:	Mr. Abhay Kumar Mr. Pranav Kumar

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CORAM: HONOURABLE MR. JUSTICE ARVIND SRIVASTAVA

C.A.V. JUDGMENT

Date: 01-08-2017

Heard learned counsel for the parties.

Petitioners, by means of this application under section 482 of the Code of Criminal Procedure, have invoked the inherent jurisdiction of this Court with prayer to quash the order dated 10.07.2012, passed by Sub-Divisional Judicial Magistrate, Patna, in Complaint Case No. 2989 C of 2011, whereby cognizance has been taken against the petitioners for the offence under sections 498A of



the Indian Penal Code and section 4 of the Dowry Prohibition Act.

The contention of the learned counsel for the petitioner is that no offence against the petitioner is disclosed and the present prosecution has been instituted with mala fide intention for the purposes of harassment. Only general and omnibus allegations have been levelled in the complaint petition. It is alleged that complainant was ousted from her matrimonial home on 21.05.2010, she was threatened in the Court premises on 20.07.2011, but the present complaint has been lodged in November, 2011. This shows falsity of the allegations levelled. Complainant has filed a petition for maintenance under section 24 of the Hindu Marriage Act and only with a view to pressurize the petitioner to get more maintenance the present false complaint has been filed. Learned counsel, in support of his argument for quashing the order taking cognizance, has placed reliance on the judgment of the Hon'ble Supreme Court reported in *(2014) 13 Supreme Court Cases, 567*.

Learned counsel appearing for the State opposes the application by contending that there are allegations against the petitioners and no ground for quashing the entire proceedings is made out.

From perusal of the materials available on record and looking into the facts of the case at this stage, it cannot be said that no offence is



made out against the petitioners. All the submissions made at bar relates to the disputed questions of fact, which cannot be adjudicated upon by this Court in exercise of power conferred under section 482 Cr. P.C. Only a prima facie satisfaction of the Court about the existence of sufficient ground to proceeding in the matter is required. At this stage only prima facie case is to be seen in the light of the law laid down by Supreme Court in cases of *R.P. Kapur Vs. State of Punjab*, A.I.R. 1960 SC 866, *State of Haryana Vs. Bhajan Lal*, 1992 SCC (Cr.) 426, *State of Bihar Vs. P.P. Sharma*, 1992 SCC (Cr.) 192, *Zandu Pharmaceutical Works Ltd. Vs. Mohd. Saraful Haq and another* (Para-10) 2005 SCC (Cr.) 283 and recently in *A.R.C.I. Vs. Nimra Cerglass Technics (P) Ltd.* (2016) 1 SCC 348. The submissions made by the learned counsel for the petitioners call for adjudication on pure questions of fact which may be adequately gone into by the trial Court in this case. This Court does not deem it proper, and therefore cannot be persuaded to have a pre-trial before the actual trial begins. The disputed defence of the accused cannot be considered at this stage. The judgment of the Hon'ble Supreme Court, cited above, is on different set of facts and the same is not applicable in the facts and circumstances of the present case. Further, the petitioners have got a right of discharge through a proper application for the said purpose and he is free to take all the



submissions in the said discharge application before the trial Court.

The prayer for quashing the order taking cognizance is refused.

The application accordingly stands dismissed.

(Arvind Srivastava, J)

Manish/-

AFR/NAFR	NAFR
CAV DATE	10.05.2017
Uploading Date	
Transmission Date	

