

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.7465 of 2016

Arising Out of PS.Case No. -260 Year- 2011 Thana -COMPLAINT CASE District- SUPAUL

- =====
1. Subhash Kumar Gupta @ Suhas Pd. Gupta,
 2. Vishundeo Gupta
 3. Jagmaya Devi
 4. Sohan Kumar alias Sohan Pd. Gupta

.... Petitioner/s

Versus

1. State of Bihar,
2. Nitu Devi

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Neeraj Kumar

For the Opposite Party/s : Mr. Manish Kumar 2 (App)

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CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH
ORAL ORDER

2 13-04-2017

Heard learned counsel for the parties.

The present application has been filed for quashing the order cognizance dated 15.12.2011 passed by the learned SDJM, Birpur in Complaint Case No. 260 of 2011 whereby process has been directed to be issued on prima facie case being found against the petitioners under section 498A of the Indian Penal Code.

It is submitted by learned counsel for the petitioners that the petitioners are family members of the husband of the complainant and the accusation is not specific against the petitioners.

Since the order of cognizance was passed on



15.12.2011 and there is nothing on record to suggest the present stage of the case. More over, at the stage of passing order under section 190(1)(a) the court has only to see that accusation constitutes a prima facie case is made out as has been held in the case of Sonu Gupta Vs. Deepak Gupta and Ors. 2015 (2) PLJR (SC) 321. Paragraph no.7 of the same reads as follows:-

“Having considered the details of allegations made in the complaint petition, the statement of the complainant on solemn affirmation as well as materials on which the appellant placed reliance which were called for by the learned Magistrate, the learned Magistrate, in our considered opinion, committed no error in summoning the accused persons. At the stage of cognizance and summoning the Magistrate is required to apply his judicial mind only with a view to take cognizance of the offence, or, in other words, to find out whether prima facie case has been made out for summoning the accused persons. At this stage, the learned Magistrate is not required to consider the defence version or materials or arguments nor he is required to evaluate the merits of the materials or evidence of the complainant, because the Magistrate must not undertake the exercise to find out at this stage whether the materials will lead to conviction or not.”

In the circumstances, this court is not inclined to



interfere in the matter at this stage. However, this application is disposed of with liberty to the petitioners to raise all the issues at the time of framing of charge if the charges have already not been framed as yet.

(Dinesh Kumar Singh, J)

Anil/-

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