

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.45081 of 2014

Arising Out of PS.Case No. -3534 Year- 2012 Thana -SARAN COMPLAINT CASE District-
SARAN

- =====
1. Rajeev Kumar son of Sri Krishna Kumar
 2. Ashok Kumar @ Ashok Kr. son of Sri Krishna Kumar
 3. Alok Kumar son of Sri Krishna Kumar
 4. Krishna Kumar son of Late Pati Sah
 5. Janki @ Janki Devi W/o Krishna Prasad All resident of Janki Cottage,
Hanuman Nagar, Shyamchak, Gudari Market behind R.C.C. Bank, P.S.
Bhagwan Bazar, P.O. / Distt. Chapra (Saran)

.... Petitioners

Versus

1. The State of Bihar
2. Sundarshana Jyoti D/o Late Jamuna Prasad R/o Jawahar Tola, P.S. Nawadah,
Distt. - Bhojpur At present residing in Railway Gandak Colony, Quarter No.
558/C, P.S. Nagar, Samastipur, District - Samastipur

.... Opposite Parties

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Appearance :
For the Petitioners : Mr. Nagendra Prasad Yadav No.1, Advocate
For the Opposite Party No.2 : Mr. Harish Kumar, Advocate
For the State : Mr. Umanath Mishra, APP

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CORAM: HONOURABLE MR. JUSTICE SANJAY KUMAR

ORAL JUDGMENT

Date: 18-09-2017

This criminal miscellaneous application under Section 482 of the Cr.P.C. has been filed to quash the order dated 06.09.2014 passed in Enquiry No.688 of 2013 arising out of Complaint Case No.3534 of 2012 by SDJM, Saran at Chapra. The learned Magistrate finding prima facie case for the offence under Section 498A of the IPC against the five petitioners and Section 376/511 of the IPC against petitioner no.3 ordered for issuance of summons.



2. Heard learned counsel for the petitioners, learned counsel for the Opposite Party No.2 as well as learned APP for the State.

3. The Opposite Party No.2 filed a complaint case on the file of CJM, Chapra, Saran alleging inter-alia that she was married with petitioner no.1 on 19.04.2012 according to Hindu Rites and Rituals. After two months of marriage, her husband and in-laws started torturing her. The petitioner no.2 who is full brother of her husband allegedly committed rape on her in the night of 08.06.2012 and she was ousted by the petitioners from the matrimonial house.

4. Learned counsel for the petitioners submits that the Opposite Party No.2 is not the wife of petitioner no.1. The petitioner no.1 has been married with one Puja Kumari on 19.10.2012. The Opposite Party No.2 has lodged Mithanpura (Muzaffarpur) P.S.Case No.147 of 2012 for the offence under Section 498A IPC and 3/4 of the Dowry Prohibition Act. She has filed one more case bearing Mithanpura (Muzaffarpur) P.S.Case Case No.125 of 2013 for the offence under Sections 498A, 504, 323, 506 and 379 of the IPC as well as 3/4 of the Dowry Prohibition Act. The allegation against petitioners, all the three cases are similar and so the prosecution of the



petitioners at three forum is not legally sustainable. There is no evidence of marriage of complaint with the petitioner no.1 and so the criminal prosecution of these petitioners in a case lodged by stranger would be an abuse of the process of the Court and so the order taking cognizance is fit to be quashed.

5. The learned counsel for the Opposite Party No.2 as well as learned APP opposed the submissions.

6. On perusal of complaint petition as well as two FIRs lodged by the Opposite Party No.2 and annexures available on record, I find that the petitioner no.1 in a proceeding has admitted the Opposite Party No.2 as his wife. There are sufficient material against the petitioners constituting prima-facie case for the offence under Section 498A of the IPC. The cause of action in all the three cases appear different. I further find that allegation of assault and torture is specific against all the petitioners. The learned Magistrate in course of enquiry found sufficient material against the petitioners in the statement of witnesses and accordingly took cognizance under Section 498A of the IPC against all the petitioners and Sections 376/511 of the IPC against petitioner no.3.

7. In view of above discussions, I do not find any illegality in the impugned order taking cognizance. This



criminal application is devoid of merit and is accordingly dismissed.

(Sanjay Kumar, J)

B.Kr./-

AFR/NAFR	NAFR
CAV DATE	
Uploading Date	22.09.2017
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