

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.34780 of 2011

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1. Nageshwar Nath Singh R/O Chiranjivi House, Mohalla Indripuri Road No.-1, Ratu Road, P.S. Sukhdev Nagar, District Ranchi (Jharkhand)
 2. Kanak Sinha W/O Sri Nageshwar Nath Sahai R/O Chiranjivi House, Mohalla Indripuri Road No.-1, Ratu Road, P.S. Sukhdev Nagar, District Ranchi (Jharkhand)
 3. Vina Sinha D/O Sri Nageshwar Nath Sahai R/O Chiranjivi House, Mohalla Indripuri Road No.-1, Ratu Road, P.S. Sukhdev Nagar, District Ranchi (Jharkhand)
 4. Prem Prakash S/O Sri Nageshwar Nath Sahai R/O Chiranjivi House, Mohalla Indripuri Road No.-1, Ratu Road, P.S. Sukhdev Nagar, District Ranchi (Jharkhand)

.... Petitioners

Versus

1. The State Of Bihar
2. Smt. Nisha Prakash W/O Ashish Prakash resident of Mohalla Indrapuri, Ratu Road, Road no.-1, Chiranjivi House, Police Station Sukhdev Nagar, Distt. Ranchi At Present Resident Of C/O Raman Kishore Sinha, Telegraph Colony, Kidawaipuri, P.S. Buddha Colony, District- Patna (Bihar).

.... Opposite Parties

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Appearance :

For the Petitioners : Mr. Jitendra Prasad Singh
For the Opposite Parties : Mr. M.Rab (APP)

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CORAM: HONOURABLE MR. JUSTICE JITENDRA MOHAN SHARMA
ORAL ORDER

7 05-09-2017

The instant Criminal Miscellaneous has been filed for quashing the order dated 18.06.2007 passed by the Sub. Divisional Judicial Magistrate, Jehanabad in Complaint Case No. 352 of 20017/ Trial No. 412 of 2011, whereby and whereunder, after finding prima-facie case to be made out against the accused persons including the petitioners under sections 323 and 498 (A) of the I.P.C. and section 34 of the Dowry Prohibition Act, they



have been ordered to be summoned.

2. Smt. Nisha Prakash being the wife of Aashish Prakash filed the aforesaid complaint case against her husband, the petitioners and others making the allegation that she was married with Aashish Prakash wherein gift and other articles were given. She is the only issue of her parents and the accused persons on that ground started demanding four wheeler (Maruti Car) by torturing her. The mother of the complainant due to all these problems died on 19.02.2006 and on 14.05.2007 when father of the complainant took her to her in-laws house she was stopped from entering into the house by assaulting and none of her belongings including the box and ornaments were returned to her.

3. The complainant was examined on the solemn affirmation and thereafter three enquiry witnesses have been examined and the learned Magistrate after considering those statements passed the impugned order.

4. The petitioners being aggrieved and dissatisfied with the aforesaid order have preferred this Criminal Miscellaneous on the ground that they are father-in-law, mother-in-law, sister-in-law and brother-in-law of the victim and the allegations made in the complaint petition are imaginary, fabricated and concocted story as a counter blast to the case



lodged by her husband in the Family Court at Ranchi under section 9 of the Hindu Marriage Act for restitution of conjugal right and thereafter divorce case was filed and then this false case has been instituted against all the family members including the husband of the victim lady. An attempt has also been made by the husband to bring back the victim lady but she is not willing to live with her husband and as such the impugned order is fit to be quashed.

5. The learned A.P.P. opposes the prayer by submitting that against the petitioners also there is allegation for torturing her and demanding Maruti Car. The quashing application filed by the husband Aashish Prakash has already been dismissed vide order dated 26.11.20017 passed in Cr. Misc. No. 41163 of 2007. There is no ground to quash the summoning order. The learned Magistrate after considering the statements of the complainant and the enquiry witnesses had passed the impugned order which is quite legal, proper and correct one.

6. Having considered the submissions urged at the Bar, going through the record and finding that during enquiry three enquiry witnesses have supported the allegation of torturing and demanding of Maruti Car and further not allowing the complainant for entering in the in-laws house and the learned



Magistrate after considering all these things has passed the impugned order which appears quite legal, proper and correct one. At this stage the defence of the accused persons cannot be looked into.

7. In the above facts and circumstances of the case, this Court is not inclined to interfere with the order aforesaid summoning the petitioners to face trial. From perusal of the L.C.R it reveals that before charge the witnesses have been examined and the petitioners may raise all their points at the time of framing of charge.

8. In the result, finding no merit in this Criminal Miscellaneous, the same is hereby dismissed.

9. The impugned order is hereby confirmed. The petitioners are at liberty to raise their all points at the time of framing of charge.

(Jitendra Mohan Sharma, J)

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