

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.4104 of 2012

Arising Out of PS.Case No. -2374 Year- 2010 District- VAISHALI(HAJIPUR)

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1. Madhu Sudan Singh S/O Late Ramanand Singh Resident Of Village- Barharba Lakhansen, Police Station- Dhaka, District- East Champaran
 2. Gayatri Devi W/O Madhu Sudan Singh Resident Of Village- Barharba Lakhansen, Police Station- Dhaka, District- East Champaran
 3. Krishna Murari Singh S/O Madhu Sudan Singh Resident Of Village- Barharba Lakhansen, Police Station- Dhaka, District- East Champaran
 4. Nilam Devi @ Nilam Singh W/O Krishna Murari Singh Resident Of Village- Barharba Lakhansen, Police Station- Dhaka, District- East Champaran

.... Petitioner/s

Versus

1. The State Of Bihar
2. Poonam Singh W/O Manmohan Singh And D/O Nand Kishore Singh Resident Of Village- Rajput Colony, House No. 22, Police Station- Industrial Area, District- Vaishali

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Awadhesh Kumar
For the Opposite Party/s : Mr. Rashid Azhar

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CORAM: HONOURABLE MR. JUSTICE SANJAY KUMAR

ORAL JUDGMENT

Date: 01-08-2017

This application under Section 482 of the Code of Criminal Procedure has been filed to quash the order dated 15.03.2011 passed by the learned S.D.J.M., Hajipur in Complaint Case No. 2374 of 2010 whereunder the petitioners were summoned to face the trial for the offence under Section 498-A of the Indian Penal Code.

2. Heard both sides and perused the record.
3. The Opposite Party No. 2 was married on 04.05.1984



with Manmohan Singh. From the said wedlock, she was blessed with two children, but unfortunately, one of them died due to illness. These petitioners are in-laws of the complainant related as parents, sister and brother. The allegation of torture is not specific against any of the petitioners. There is omnibus allegation of torture. The petitioners claim that they are residing separately having no concern either with the complainant or her husband. The husband of the Opposite Party No. 2 is a Government employee and was posted at Patna. The complainant has alleged that her husband used to torture her and left maintaining the complainant and her son. In course of enquiry, the complainant and her three witnesses have supported the allegation of torture against her husband. The witnesses examined on her behalf are her two brothers and son. The son of the complainant has stated that his father used to assault his mother (complainant) and has left maintaining them. It further appears that the husband has filed a Divorce Case No. 142 of 2010 on 25.06.2010 on the file of Principal Judge, Family Court, Motihari. Thereafter, the complainant has filed the present case on 07.08.2010 i.e. after one and half months of the institution of divorce case. In divorce case the husband asserted that since last six years, his wife is residing separately and on 08.02.2010, she finally refused to live in the company of the husband. The present case has been filed after 26 years of the marriage and during this



period, there is no allegation of any torture against the petitioners. The main grievance of the complainant is against her husband, who allegedly got himself transferred from Patna to Motihari in order to escape the liability of maintaining the complainant.

4. In the above background, I find that the criminal prosecution of these petitioners against whom there is omnibus allegation, would amount to abuse of process of the Court. The impugned order taking cognizance against them as such is not sustainable.

5. In view of discussions made above, the order taking cognizance under Section 498-A of the Indian Penal Code with respect to these petitioners only is hereby quashed. This application is allowed.

(Sanjay Kumar, J)

ajaypd./-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	03.08.2017
Transmission Date	03.08.2017

