

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.5646 of 2012

Arising Out of PS.Case No. -0 Year- null Thana -null District- PATNA

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1. Ram Kalyan Ojha S/o Late Kamakhya Ojha, Resident of 901, 9th Floor, 'A' Wing, Black Smith Tower-1, Sector-VI, Airoli, Navi Mumbai-400708.
 2. Arvind Kumar Ojha S/o Shri Kalyan Ojha, resident of 901, 9th Floor, 'A' Wing, Black Smith Tower-I, Sector-Vi, Airoli, Navi Mumbai-400708.

.... Petitioner/s

Versus

1. The State of Bihar.
2. Prabha Ojha D/o Shri Bhuneshwar Mishra, resident of Bharauli, P.S.Shahpur, Distt-Bhojpur.

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Manoranjan Kumar, Advocate
For the Opposite Party/s : Smt. Anita Kumari, APP

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CORAM: HONOURABLE MR. JUSTICE SANJAY KUMAR

ORAL JUDGMENT

Date: 30-08-2017

Heard learned counsel for the petitioners and learned
Additional Public Prosecutor for the State.

2. This criminal miscellaneous application under section 482 of the Code of Criminal Procedure has been filed to quash the order dated 02.12.2011 passed by the learned Sub-Divisional Judicial Magistrate, Patna in Complaint Case No. 1808 (c) of 2009 whereby and whereunder the learned Magistrate refused to allow the petitioner to be represented through his lawyer under section 205 Cr.PC.

3. The fact of this case, in brief, is that the petitioners are father-in-law and husband of the opposite party no. 2. The opposite



party no. 2 had filed a complaint case against the petitioners and their family members for the offences under sections 498A, 406, 379, 323, 494, 497, 504, 506/34 of the Indian Penal Code and section 3/4 of the Dowry Prohibition Act. The matter was enquired and the learned Court below finding *prima facie* case for the offences under sections 498A and 406 of the Indian Penal Code and section 4 of the Dowry Prohibition Act, summoned the petitioners to face the trial, vide order dated 07.05.2010. Thereafter, the opposite party no. 2 lodged a police case at Mumbai, vide Ravale Police Station Case No. 189 of 2009 on similar allegation against these petitioners only with a view to harass them. The petitioners are residing at Mumbai and the opposite party no. 2 has filed this case at Patna. The Court below had no jurisdiction to entertain the complaint case. It is not possible for the petitioners to remain present before the Court at Patna and so, the petition under section 205 Cr.PC was filed praying therein to permit them to be represented through their advocate under section 205 Cr.PC. The learned Court below without appreciating this fact, has rejected the prayer in mechanical manner and so, the same is fit to be quashed.

4. On perusal of complaint petition, impugned order and annexures enclosed with this application, I find that the petitioners are father-in-law and husband of opposite party no. 2. She has specifically alleged that her husband and in-laws came at her parents place also



and attempted to snatch her female child and also took gold chain from her possession. The learned Court below has rejected the prayer of petitioners by a reasoned order. The petitioners have not assigned any good and cogent reason for not appearing before the Court below. For the appearance of the petitioners, the Court below has already issued warrant of arrest against them and the case is pending for appearance of the petitioners since last six years.

5. In view of the discussion made above, I do not find any merit in this criminal miscellaneous application and the same is, accordingly, dismissed.

(Sanjay Kumar, J)

Mahesh/-

AFR/NAFR	NAFR
CAV DATE	N/A
Uploading Date	6.9.2017
Transmission Date	6.9.2017

