

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.52582 of 2013

Arising Out of PS.Case No. -527 Year- 2012 Thana -GAYA COMPLAINT CASE District- GAYA

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1. Rinku Kumar Son Of Gulab Singh Resident Of Village - Dighasin, P.O. Pankari (Guria), P.S. Imamganj, District - Gaya

2. Gulab Singh Son Of Late Ram Ratan Singh Resident Of Village - Dighasin, P.O. Pankari (Guria), P.S. Imamganj, District - Gaya

3. Sakuntala Devi Wife Of Gulab Singh Resident Of Village - Dighasin, P.O. Pankari (Guria), P.S. Imamganj, District - Gaya

.... Petitioner/s

Versus

1. The State Of Bihar

2. Nitu Kumari Wife Of Rinku Kumar, D/O Harendra Singh Resident Of Village - Mahamdpur, P.S. Sherghati, District - Gaya

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Md. Javed Jafar Khan

For the Opposite Party/s : Mr. Jharkhandi Upadhyay(App)

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CORAM: HONOURABLE MR. JUSTICE VINOD KUMAR SINHA
ORAL ORDER

6 19-01-2017 Heard the parties.

The petitioners have filed the present application under Section 482 of the Cr. P.C. for quashing of the order, dated 12.03.2013, passed by S.D.J.M., Sherghati at Gaya in Complaint Case No. 527 of 2012 Tr. No. 2586/12 by which the learned S.D.J.M., Sherghati has taken cognizance against the petitioners under Section 498A/34 of the Indian Penal Code.

Prosecution case in short is that complainant filed a complaint petition before the learned Chief Judicial Magistrate stating that her marriage was solemnized with petitioner no. 1 in the year 2006 and after marriage she went to her sasural, where she lived peacefully for three days. Thereafter, petitioners and



other family members started demanding Rs. 50,000 and a motorcycle as dowry and due to non fulfillment of the said demand, the complainant was subjected to torture in various ways. It was also stated that out of the wedlock one female child was born on 25.06.2007 and when the complainant was pregnant, the petitioners had pressurized her to abort her pregnancy and when the complainant opposed to do so, the accused persons ousted her from her sasural.

On the basis of aforesaid, a Complaint Case No. 527 of 2012 was registered. After enquiry learned S.D.J.M., Sherghati, Gaya, has *prima facie* found the case against the petitioners under Section 498A/34 of the Indian Penal Code and accordingly issued processes against the petitioners, which is under challenge in the present application.

It has been submitted on behalf of the petitioners that from perusal of the whole complaint petition, it will appear that there is no specific overt act has been attributed to these petitioners and the allegations that have been made are general and omnibus in nature. Petitioner No. 1 is the husband, petitioner no. 2, is father in law and petitioner no. 3 is the mother in law and all of them are ready to keep the complainant with themselves with full honour and dignity but the opposite party herself is not ready to live with them. The matter was earlier sent for mediation also



but in one way or the other, the same could not materialize. It has further been submitted that petitioner has also filed an application for restitution of conjugal rights before the Principal Judge, Family Court, Gaya and after filing of the aforesaid matrimonial case, the complainant has filed the present complaint case, as such the aforesaid facts clearly shows that the petitioners are still ready to keep the complainant with themselves and if the aforesaid complaint case is allowed to be continued, it will create a hurdle in family life of the petitioners and no amicable settlement will ever be reached. It has further been submitted that without appreciating the fact that no specific allegation has been attributed to the petitioners, learned Court below has passed the order issuing process and that too in a very mechanical manner.

Heard learned counsel for the State and learned counsel appearing on behalf of opposite party no. 2. It has been submitted on behalf of opposite party no. 2, that the learned Magistrate after perusal of the complaint petition and materials available on record has taken cognizance against the petitioners, as such there is no illegality in the impugned order.

Having heard both sides, from perusal of the complaint petition, it appears that petitioner no. 1 is the husband of the opposite party no. 2 (complainant), petitioner no. 2 and 3 are father-in-law and mother-in-law respectively and as regards



submission of learned counsel that no specific allegation has been attributed to the petitioners, the same cannot be considered as it appears from the complaint petition itself that the complainant after her marriage had gone to her matrimonial house where she was subjected to torture for non fulfillment of demand of motorcycle and Rs. 50,000/- as dowry. It is also the allegation against the petitioners that when the opposite party no. 2 was pregnant, they put pressure on her to abort the said pregnancy and when opposite party no. 2 objected to do so, accused persons ousted the opposite party no. 2 from her matrimonial house. The allegation appears to be serious, veracity of same can only be tested during trial.

In view of the above, I do not find any infirmity or illegality in the order, dated 12.03.2013, passed by S.D.J.M., Sherghati in Complaint Case No. 527 of 2012 Tr. No. 2586/12.

Accordingly, the present application is hereby dismissed.

(Vinod Kumar Sinha, J)

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