

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.48388 of 2013

Arising Out of PS.Case No. -201 Year- 2013 Thana -SAMASTIPUR COMPLAINT CASE District-
SAMASTIPUR

=====

1. Prashant Kumar Singh Son Of Gaurishankar Singh Resident Of Village + P.S. Singhia, District - Samastipur, Presently Resident Of 323 M.I.G., P.O. + P.S. - Kankarbagh, District - Patna

2. Sangita Singh Wife Of Prashant Kumar Singh Resident Of Village + P.S. Singhia, District - Samastipur, Presently Resident Of 323 M.I.G., P.O. + P.S. - Kankarbagh, District - Patna

3. Pragya Singh @ Pragya Kumari Wife Of Pravin Kumar Singh @ Pravin Kumar Resident Of Village + P.S. Singhia, District - Samastipur, Presently Resident Of Lohancha - 1, Colony, Quarter No. 152, P.S. Sector - 12, District - Bokaro (Jharkhand) Petitioners

Versus

1. The State Of Bihar

2. Sangita Kumari @ Babli Wife Of Prabhat Kumar Singh Resident Of Village P.O + P.S. Singhia, District - Samastipur, Present Address, D/O Late Radhika Raman Singh, Present Address, D/O Late Radhika Raman Singh, Mohalla - Addarsh Nagar, Fakirna, Ward No.6, P.S. Rosera, District - Samastipur Opposite Parties

=====

Appearance :

For the Petitioners : Mr. Kumar Rajeev, Adv.

For the State : Mr. Abhay Kumar Raoy, APP

For the informant : M/S Mukesh Kumar & Shivjee Singh, Adv.

=====

CORAM: HONOURABLE MR. JUSTICE BIRENDRA KUMAR

ORAL JUDGMENT

Date: 10-01-2017

Heard the learned counsel for the petitioners, the State as well as the informant.

2. This application is under Section 482 Criminal Procedure Code with prayer to quash the impugned order dated 04.07.2013 against the petitioner whereby the petitioner and other co-accused person have been summoned to face trial for offences under Section 498A of the Indian Penal Code in connection with Complaint Case No. 201 of 2013 by the learned Sub-Divisional Judicial Magistrate, Rosera, Samastipur.

3. Submission of the petitioners is that the petitioners are distant relations of the matrimonial family. The allegation is general and omni bus.



4. Learned counsel for the informant submits that there is allegation that the petitioners assaulted with chappal to the complainant and demanded dowry, hence, prima facie material is there and at this stage impugned order can not be interfered with.

5. A bare perusal of the complaint petition would reveal that allegation against the petitioners is general and omnibus.

6. Contention is that now a tendency has developed that in cases of dispute between husband and wife, the entire family members and relations including some distant relations are falsely roped just to put wrong pressure and wrongful harassment. Learned counsel has placed reliance on cases reported in **2013(3) PLJR 139 (Shiv Jee Rai vs. The State of Bihar & Anr.)** and reported in **2014(3) PLJR 263 (Ajay Kumar Chaudhary & Ors. vs. The State of Bihar & Anr.)**.

7. In **Shiv Jee Rai's** case (supra), a case under Section 498A of the Indian Penal Code, the allegation against the petitioner was only vague and omnibus similar to the present case and in paragraph 7 of the judgment, the Court has observed as follows:-

“7. It is also a matter of common knowledge that exaggerated versions of the incident are reflected in a large number of complaints. The tendency of over implication has become affair of the day that has been noticed by the Hon'ble Supreme Court in the case of **Preeti Gupta and Another vs. State of Jharkhand and Another**, reported in A.I.R. 2010 SC 3363 [: 2010(4) PLJR (SC)36] and recently the Hon'ble Supreme Court in the year 2012 in the case of **Geeta Mehrotra and Another vs. State of U.P. and Another*** passed in Criminal Appeal No. 1674 of 2012 paragraph nos. 14, 17, 19, 20, 21 and 27 where in the similar fact and situation the Hon'ble Supreme Court has held that now it became tendency in general to rope all the family members in a case under Section 498A of the Indian Penal Code in order to (sic) undue harassment to the family members. It will be appropriate to quote paragraph nos. 34 and 35 of the aforesaid judgment in the



case of **Preeti Gupta** (*supra*) :—

34. Unfortunately, at the time of filing of the complaint the implications and consequences are not properly visualised by the complainant that such complaint can lead to insurmountable harassment, agony and pain to the complainant, accused and his close relations.

35. The ultimate object of justice is to find out the truth and punish the guilty and protect the innocent. To find out the truth is a Herculean task in majority of these complaints. The tendency of implicating the husband and all his immediate relations is also not uncommon. At times, even after the conclusion of the criminal trial, it is difficult to ascertain the real truth. The courts have to be extremely careful and cautious in dealing with these complaints and must take pragmatic realities into consideration while dealing with matrimonial cases. The allegations of harassment of husband's close relations who had been living in different cities and never visited or rarely visited the place where the complainant resided would have an entirely different complexion. The allegations of the complainant are required to be scrutinized with great care and circumspection.”

8. In **Ajay Kumar Chaudhary's** case (*supra*) also the allegation was general and omnibus against the petitioners similar to the present case and in paragraph 12 of the judgment, the Court has observed as follows:-

“12. The Apex Court, in the case of **G.V. Rao vs. L.H.V. Prasad and Others**, reported in (2000)3 SCC 693, has deprecated the deliberate implication of entire family members of the husband. Paragraph No. 12 of the judgment is as under:—

"There has been an outburst of matrimonial disputes in recent times. Marriage is a sacred ceremony, the main purpose of which is to enable the young couple to settle down in life and live peacefully. But little matrimonial skirmishes suddenly erupt which often assume serious



proportions resulting in commission of heinous crimes in which the elders of the family are also involved with the result that those who could have counseled and brought about rapprochement are rendered helpless on their being arrayed as accused in the criminal case. There are many other reasons which need not be mentioned here for not encouraging matrimonial litigation so that the parties may ponder over their defaults and terminate their disputes amicably by mental agreement instead of fighting it out in a court of law where it takes years and years to conclude and in that process the parties lose their "young" days in chasing their "cases" in different Courts."

9. Considering the facts of this case specially the fact that allegation against the petitioner is general and omnibus as also considering the aforesaid judgments, I am of the view that the impugned order is not sustainable in law so far the three petitioners are concerned, hence, the same is quashed and this application stands **allowed**.

(Birendra Kumar, J)

SA/-

AFR/NAFR	AFR
CAV DATE	
Uploading Date	16.01.2017
Transmission Date	16.01.2017

