

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.27618 of 2014

Arising Out of PS.Case No. -74 Year- 2010 Thana -NATWAR District- SASARAM (ROHTAS)

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1. Dharmendra Kumar S/o Vishnu Sah
2. Vishnu Sah
3. Satyendra Prasad S/o Vishnu Sah
4. Ramendra Prasad S/o Vishnu Prasad
5. Dhanwanti Devi @ Hawanti Devi W/o Vishnu Sah
6. Mahendra Prasad S/o Vishnu Sah All resident of Village- Natwar, P.S- Natwar, District- Rohtas.

.... Petitioner/s

Versus

1. The State of Bihar
2. Thakur Prasad S/o Late Chaturi Prasad Gupta resident of Mohalla Khilanganj, Ward no. 31, P.S- Sasaram Town, District- Rohtas.

.... Opposite Party/s

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Appearance :

For the Petitioner/s	:	Mr. Vinod Kumar
For the Opposite Party No. 2	:	Mr. Sanjay Kumar Tiwary
For the State	:	Mr. Akhileshwar Dayal, APP

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CORAM: HONOURABLE MR. JUSTICE SANJAY KUMAR

ORAL JUDGMENT

Date: 08-08-2017

This application under Section 482 of the Code of Criminal Procedure has been filed to quash the order dated 02.04.2012 passed in Natwar (Bikramganj, Rohtas) P.S. Case No. 74 of 2010 arising out of Complaint Case No. 62 of 2012 whereunder the learned Magistrate finding prima facie case for the offence under Section 498-A of the Indian Penal Code took cognizance and summoned the petitioners.

2. Heard both sides and perused the record.

3. The petitioner no. 1 is the son of the petitioner No. 2. His



marriage was performed with the daughter of Opposite Party No. 2 (informant) on 25.02.2007. It has been alleged that since the date of marriage, the daughter of the informant was being tortured and she was killed by her husband and in-laws on account of non fulfillment of their demand. The matter was investigated and police submitted final form as mistake of fact vide Charge-sheet No. 46 dated 30.09.2011. A protest petition was filed and the informant and his witnesses supported the allegation of torture and commission of her murder on account of non fulfillment of dowry. The learned Magistrate finding prima facie case only for the offence under Section 498-A of the Indian Penal Code against the petitioners, took cognizance and ordered for issuance of summons against them.

4. The learned counsel for the petitioners submits that the deceased was residing with the petitioner No. 1 at Gurgaon where she suddenly suffered stomach pain. She was treated at Gautam Hospital, Gurgaon, Haryana and in course of treatment, she died on 04.12.2010. The informant in order to extort money has wrongly alleged that she was tortured and killed by the petitioners on 03.12.2010, which stands falsified from the papers annexed with the application and the death certificate (Annexure-5/F). The matter was investigated and police rightly submitted final form as mistake of fact. The learned Magistrate has erred in taking cognizance against the petitioners for the offence



under Section 498-A of the Indian Penal Code and so, the impugned order is fit to be quashed.

5. The learned A.P.P. for the State opposed the submissions.

6. On perusal of protest petition, F.I.R. and impugned order, I find that the petitioner No. 1 was married with the daughter of Opposite Party No. 2. It has been alleged that on the occasion of marriage, sufficient articles and cash amount worth Rs. 4,00,000/- were given to the petitioners. The husband and in-laws used to demand Rs. 1,00,000/- as cash and a motor-cycle and on several occasion, they hurled threat of dire consequences to the informant and his daughter. It further appears that the informant in his solemn affirmation and other witnesses supported the allegation of torture against all the petitioners. The learned Magistrate on the basis of material on record has rightly taken cognizance under Section 498-A of the Indian Penal Code.

7. In view of the materials on record, I do not find any merit in the application. This application is, accordingly, dismissed.

(Sanjay Kumar, J)

ajaypd./-

AFR/NAFR	NAFR
CAV DATE	NA
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