

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.37391 of 2014

Arising out of PS.Case No. -673 Year- 2014 Thana -EAST CHAMPARAN COMPLAINT District-
EASTCHAMPARAN(MOTIHARI)

- =====
1. Madhuri Singh @ Punam Singh Wife of Sri Ravindra Prasad Singh
Resident of Village - Plot No. 204D, Indra Darwar Sket Vihar, Harmu,
P.S. - Harmu, District - Ranchi-12
 2. Kumud Kumari wife of Rajesh Singh Resident of Mohalla - Collegiate
Gali Paul Optico, Phase No. 2, Kadamkuan, P.S. - Kadam Kuan, District
- Patna.
 3. Dipendra Kumar, son of Jitendra Singh @ Jitendra Kumar Singh At
present Residing, C/o - Jabir Singh, House No. 45, Kushum Bihar, R.K.
Colony, Kishangarah, Madanganj, P.S. - Kishangarah, Distt. - Ajmer,
Rajastha.
 4. Pushpa Kumari @ Pushpa Kumar W/o- Awadhesh Kumar Singh
Resident of Mohalla - House No. 170 Ward No. - 4, Near MBI Training
Center, B.C. School Ulilliam Town, Krishnapuri, P.S.- Deoghar, District
- Deoghar (Jharkhand)

.... Petitioner/s

Versus

1. The State of Bihar
2. Rima Kumari W/o- Shivendra Kumar, D/o- Sri Roop Narayan Singh,
resident of Village - Ambika Nagar (near Math of Chanchal Baba), P.S. -
Banjariya, District - East Champaran, Motihari.

.... Opposite Party/s

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Appearance:

For the Petitioner/s : Mr. N.K. Agrawal, Sr. Advocate
Mr. Vijay Anand, Advocate
Mr. Vikram Singh, Advocate

For the Opposite Party/s : Mr. Suresh Prasad Singh (APP)

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CORAM: HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH
ORAL ORDER

4 09-08-2017

Heard Shri Vijay Anand, learned counsel for the
petitioner and Shri Suresh Prasad Singh, learned counsel for the
opposite party no. 2.

The opposite party no. 2 has filed Complaint Case
No. 673 of 2014 dated 04.4.2014 against seven accused persons
including the petitioners herein *inter alia* alleging therein that her



marriage was solemnized with one Shivendra Kumar on 26.4.2007 wherein her father and brothers had given huge sums of money as well as lots of ornaments. It is submitted that subsequent to the marriage the accused persons started demanding a sum of Rs. 20,00,000/- by way of dowry for the purposes of purchasing a flat in Delhi. Upon non-fulfillment of demand, the accused persons used to harass and beat the opposite party no. 2.

In the aforesaid complaint, Complaint Case No. 673 of 2014 (Enq-634 of 2014) arising out of Trial No. 6422 of 2014, the learned Court of S.D.J.M., Sadar, Motihari by an order dated 02.6.2004 has taken cognizance for offences punishable under sections 498A, 323, 34 of the Indian Penal Code and Section 4 of the Dowry Prohibition Act against all the accused persons including the petitioners herein.

The petitioners have assailed the aforesaid order dated 02.6.2014 passed by the learned S.D.J.M., Sadar, Motihari in the present petition.

The learned counsel for the petitioners submits that the petitioner no. 1, 2 and 4 are the sister-in-law of the opposite party no. 2 and petitioner no. 3 is brother-in-law of the opposite party no. 2. It is further submitted that the petitioners herein have nothing to do with the alleged occurrence, hence it is the husband



of the opposite party no. 2 Shivendra Kumar with whom if at all there may be certain matrimonial dispute. It is further stated by learned counsel for the opposite party no. 2 that as far as the parents of the petitioners are concerned, who are also accused in the aforesaid complaint, the connected complaint case has been quashed as against them. In this regard, he produces order dated 15.7.2016 passed by this Court in Criminal Misc. No. 41847 of 2014. A bare perusal of the aforesaid order dated 15.7.2016 passed by this Court would show that the petitioners of the present case are also similarly situated.

The learned counsel for the petitioners further contends that they have been falsely implicated, as is apparent from bare perusal of the materials available on record.

Having regard to the facts and circumstances of the case, I find that as far as the petitioners herein are concerned, they have no role to play in the alleged occurrence which is also apparent from perusal of the complaint petition. Moreover, similarly situated co-accused persons who are father-in-law and mother-in-law of the opposite party no. 2 have also been absolved of the charges by way of quashing of the compliant case passed by this Court as against them. Another aspect of the matter is that though the opposite party no. 2 is represented by advocate, upon



due service of notice to her, there was no appearance on behalf of the opposite party no. 2 either on the last date of hearing which was 02.08.2017 or today, which makes it apparent that the opposite party no. 2 has lost interest in the present case.

I may hasten to act that the order dated 02.6.2014 does not show application of mind and has been passed in a perfunctory manner. It is trite law that the order taking cognizance, which is prejudicial to the accused persons, ought to be passed diligently and should show appropriate application of mind. In this connection reference be had to a judgment of the Hon'ble Apex Court reported in **AIR 2015 SCW 3027 (Md. Mehmood Rehman vs. Khazir Mohammad Tunda & Ors.)**.

For the reasons mentioned hereinabove, the order dated 02.6.2014, as far as the petitioner nos. 1 to 4 herein are concerned, is quashed and consequently any other proceedings emanating therefrom is also quashed. The petition is allowed.

There shall be no order as to costs.

(Mohit Kumar Shah, J)

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