

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.47644 of 2013

Arising Out of PS. Case No.-25 Year-1999 Thana- SHERGHATI District- Gaya

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1. AMLA DEVI WIFE OF SRI BIRENDRA SINGH R/O MOHALLA-MUSUM VIHAR, P.S. BARIYATTU, DISTT-RANCHI
 2. SANTOSH KUMAR @ SANTOSH SINGH SON OF BIRENDRA SINGH R/O MOHALLA-MUSUM VIHAR, P.S. BARIYATTU, DISTT-RANCHI
 3. MANISH KUMAR @ MANISH SON OF BIRENDRA SINGH R/O MOHALLA-MUSUM VIHAR, P.S. BARIYATTU, DISTT-RANCHI
 4. MANOJ SINGH SON OF LATE KAMESHWAR SINGH R/O VILLAGE-NARHAR AMBA, P.S.-KUTUMBA, DISTT-AURANGABAD
 5. AMRAWATI DEVI WIFE OF MANOJ SINGH R/O VILLAGE-NARHAR AMBA, P.S.-KUTUMBA, DISTT-AURANGABAD
 6. ANIL KR SINGH SON OF LATE JAGDISH SINGH R/O VILLAGE-AAJAN, P.S.-MADANPUR, DISTT-AURANGABAD
 7. LAXMI NARAYAN SINGH @ NARAYAN SINGH SON OF LATE JAGDEO SINGH R/O VILLAGE-SINGRA, P.S. DALTONGANJ, DISTT-PALAMAU
 8. NAGENDRA SINGH SON OF LAXMI NARAYAN SINGH R/O VILLAGE-SINGRA, P.S. DALTONGANJ, DISTT-PALAMAU

... .. Petitioner/s

Versus

1. The State Of Bihar
2. Juli Devi D/O Vijay Singh R/O Gola Bazar, Sherghati, In The House Of Firangi Singh, P.S. Sherghati, Distt-Gaya

... .. Opposite Party/s



Appearance :

For the Petitioner/s	:	Mr. Rajendra Prasad Singh, Sr. Adv & Mr. Rajeev Kumar Singh, Adv
For the State	:	Mr. UDAY CHANDRA PD.(APP)
For the O.P. No. 2	:	Mr. Birendra Kumar Singh, Adv

CORAM: HONOURABLE MR. JUSTICE S. KUMAR

ORAL JUDGMENT

Date : 29-11-2017

Heard learned counsel for the petitioners, learned counsel for the State and learned counsel for the Opposite Party No. 2.

The present petition under Section 482 of the Cr.P.C has been filed for quashing the order of cognizance dated 21.03.2013, passed in Sherghati P.S. Case No. 25 of 1999 by Sub-divisional Judicial Magistrate, Sherghati, by which cognizance has been taken under Section 498A read with Section 34 of Indian Penal Code and Section 4 of Dowry Prohibition Act, against the petitioners.

Briefly stated, the facts of the case is that informant-opposite party no. 2 Juli Devi filed an application before the Superintendent of Police, Gaya, stating therein that she is daughter of Vijay Singh and was married on 05.05.1992 with Petitioner No. 8. Nagendra Singh. She had further stated that when she went at the house of petitioner no. 8 Nagender Singh, petitioner no. 8 Nagendra Singh, her Father-in-Law and other family members directed informant-opposite party no. 2 to



bring Rs. 50,000/-, but she expressed her inability to bring the said amount. She has further stated that she had given birth to a female child at Ranchi hospital and with the consent of her husband Nagender Singh she had kept her baby at Anathalaya and apprehending danger to her life, she after keeping the newly born baby in Anathalaya, went to her parental house. On the basis of such allegation FIR was registered under section 498A and section 3 and 4 of Dowry Prohibition Act, on 24.02.1999.

The matter was investigated by the police and after investigation police submitted chargesheet against petitioner no.8, the husband of informant-opposite party no. 2 and did not find any material against rest of the accused named in the FIR and did not sent up them for trial.

On the basis of chargesheet submitted by the police, the trial court after going through the case diary, materials available on record and evidence collected during investigation, differed with the finding of the police and found that there is sufficient materials in the case diary against all the accused and took cognizance of the offence under Section 498A of the IPC and Sections 3 and 4 of the Dowry Prohibition Act, against all the persons made accused in the FIR, the present petitioners.



It has been submitted on behalf of the petitioners that they have been falsely implicated in this case and though after full investigation done by the police, no offence was made out against the petitioner nos. 1 to 7 and only petitioner no. 8 was chargesheeted by the police but in a very mechanical manner all the petitioners have been made accused and summons have been issued and cognizance has been taken against them. It has been further submitted that there is no specific allegation made by the informant-opposite party no. 2 against the petitioner nos. 1 to 7 and there is no any specific allegation of demand of dowry made against them or any specific allegation of torture committed by petitioner nos. 1 to 7 on informant-opposite party no. 2. The relation of petitioner nos. 1 to 7 with the petitioner no. 8 is that petitioner no. 1 Amla Devi and petitioner no. 5 Amrawati Devi are sister, petitioner no. 2 Santosh Kumar and petitioner no. 3 Manish Kumar are nephew, petitioner no. 4 Manoj Singh peitioner no. 6 are Brother-in-Law and petitioner no. 7 is the Father.

After considering the facts and circumstances of the case and perusing contents of FIR, it is apparent that there is no specific allegation made against the petitioner nos. 1 to 7 by the informant-opposite party no. 2. It is the duty of husband



petitioner no. 8 to keep informant-opposite party no. 2 with dignity and honour and it is his responsibility of safety and security of informant-opposite party no. 2. Even some atrocity is committed by another family member, it is his pious obligation to protect his wife and take proper care of her welfare and well being.

In the present case, there is no specific allegation of any overt act against the petitioner nos. 1 to 7 or demand of dowry and for non fulfillment of dowry, she is being tortured and being harassed. The personal dispute between the husband and wife should be settled at their level and whole family should not be made accused and subjected to harassment, as such the order taking cognizance against the petitioner nos. 1 to 7 is quashed, however, proceeding against petitioner no. 8 who is husband of wife-informant-opposite party no. 2, shall continue.

The petition is partly allowed.

(S. Kumar, J)

ranjan/-

AFR/NAFR	NAFR
CAV DATE	N.A.
Uploading Date	07.12.2017
Transmission Date	07.12.2017

