

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.54467 of 2013

Arising Out of PS.Case No. -2160 Year- 2012 Thana -EAST CHAMPARAN COMPLAINT
District- EASTCHAMPARAN(MOTIHARI)

- =====
1. Prashant Kumar @ Prashant Sharan S/O Sri Prabhunath Sharan
Resident Of Mohalla- Anandpuri- Belbanwan, P.S.- Motihari Town,
Distt.- East Champaran At Motihari
 2. Prabhakar Kumar @ Prabhakar Sharan S/O Sri Prabhunath Sharan
Resident Of Mohalla- Anandpuri- Belbanwan, P.S.- Motihari Town,
Distt.- East Champaran At Motihari

.... Petitioners

Versus

1. The State Of Bihar
2. Sweta Shree W/O Vikash Kumar, And D/O Sri Arun Srivastava
Resident Of Mohalla- New Chandmari, P.S.- Motihari Town, Distt.-
East Champaran At Motihari At Present Residing At Pipra Nai Basti
Tola, Birganj, P.S.- Parsa, Nepal

.... Opposite Parties

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Appearance :

For the Petitioners	:	Dr. Amrendra Kumar, Adv. Mr. Ravi Shanker Pankaj, Adv.
For the State	:	Mr. A.M. Mehta, A.P.P.
For the O.P. No.2	:	None

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CORAM: HONOURABLE MR. JUSTICE RAJENDRA KUMAR MISHRA
ORAL ORDER

5 11-07-2017 This application under Section 482 of the code of Criminal Procedure is directed to quash the order dated 29.08.2013 passed in Complaint Case No. 2160 of 2012 (T.R. No. 3397 of 2013), whereunder the Court of S.D.J.M., Sadar, Motihari summoned the five accused named in the complaint petition including the petitioners, on enquiry, under Section 204 of the Code of Criminal Procedure finding prima facie case for the offence under Sections 498(A) and 379 of the Indian Penal



Code.

The facts leading to this application is that O.P. No. 2 Sweta Shree filed Complaint Case No. 2160 of 2012 with contention that her marriage was performed with Bikash Kumar, resident of Anandpuri-Belbanwan, P.S. Motihari Town, District-East Champaran at Motihari according to Hindu custom on 12.02.2005 and she went to her matrimonial house on 13.02.2005. Due to the wedlock, she gave birth of first child, namely, Sidharth on 27.04.2006 and second child on 09.06.2008. The husband of complainant intended to sex only after six days of the delivery then complainant opposed to do so, but her husband was not ready to restrain herself. Thereafter, complainant made complaint to her mother-in-law, but her mother-in-law was in support of her husband. Thereafter, she was being tortured through various modes and also demand of cash and vehicle was made, then she shows inability to fulfill demand by her parents. Lastly, she was removed from her matrimonial house on 01.04.2011 along with her both children on snatching her personal belongings worth of Rs. 8 lakhs saying that unless the demand of Scorpio vehicle will not fulfill, she will not be permitted in matrimonial house. On 11.04.2011 her father-in-law Prabhu Nath Sharaf came at her Myaka and made request to



come back at her matrimonial house then she went to matrimonial home on 12.04.2012, but she was again tortured by her in-laws and her in-laws under conspiracy trying to perform re-marriage of her husband Bikash Kumar sending him to foreign, where her two brother-in-laws live after performing the marriage with foreign girls.

Learned counsel for the petitioners submits that on perusal of the complaint petition and the S.A. of the complainant, it would appear that allegation has not been made against the petitioners to make demand of dowry and torturing for same to the complainant/O.P. No.2, rather only allegation is that both petitioner used to reside in foreign, where they performed marriage with foreign girls and her in-laws also wants to send her husband there for performing re-marriage.

On going through the complaint petition and S.A. of the complainant/O.P. No.2, it appears that both the petitioners, who are brother-in-laws of the complainant-O.P. No.2 used to reside in America and they have been shown as accused in the accused column along with husband, father-in-law and mother-in-law, but no overt act has been attributed against them regarding demand of dowry and torturing of Complainant-O.P. No. 2. As such impugned order summoning the accused-petitioners, on



enquiry, under Section 204 Cr.P.C. for the offence under Section 498(A) and 379 I.P.C. against the petitioners is illegal and abuse of the process of law.

In the result, the impugned order dated 29.08.2013 summoning the accused-petitioners also, on enquiry, under Section 204 Cr.P.C. for case under Section 498(A) and 379 of Indian Penal Code by the Court of S.D.J.M. Sadar Motihari in Complaint Case No. 2160 of 2012 (T.R. No. 3397 of 2013) is hereby quashed.

(Rajendra Kumar Mishra, J)

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