

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**Criminal Miscellaneous No.32559 of 2014**

Arising Out of PS. Case No.-579 Year-2011 Thana- PATNA COMPLAINT CASE District-  
Patna

- 
1. Sarwan Kumar Mehta Son of Late Nathun Pd.
  2. Rajendra Pd. Son of Late Nathun Pd. Both Resident of Gurki Mandi, P.S.- Alamganj, District – Patna.

... .. Petitioner/s

Versus

1. The State of Bihar.
2. Smt. Silpa Kumari @ Gunja Wife of Sarwan Kumar Mehta D/o Indra Deo Kumar Mehta, Resident of Rampur Lane, Musallahpur, P.S.- Sultanganj, District - Patna

... .. Opposite Party/s

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**Appearance :**

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| For the Petitioner/s | : | Mr. Tilak Sao, Adv    |
| For the State        | : | Mr. NAZIR ANSARI(APP) |
| For O.P. No. 2       | : | Mr. Sudish Kumar, Adv |

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**CORAM: HONOURABLE MR. JUSTICE S. KUMAR**

**ORAL JUDGMENT**

**Date : 16-08-2017**

Heard learned counsel for the parties.

This application under Section 482 of the Cr.P.C has been filed for quashing the order taking cognizance dated 03.01.2012, passed in Complaint Case No. 579 of 2011 by which cognizance has been taken under Section 498A of the Indian Penal Code, and Section 3/4 of the Dowry Prohibition Act.

Briefly stated, the facts of the case is that the complainant-Opposite Party No. 2 was married to accused Sarwan Kumar Mehta (petitioner no. 1) in accordance with hindu rites and customs on 17.06.2010. It has been further



alleged in the complaint that she lived for one month in the matrimonial home, but thereafter she was subjected to torture for non fulfillment of dowry demand of Rs. 2 Lacs. She was compelled to leave the matrimonial home and thereafter on 14.06.2011, the present complaint petition has been filed. The petitioner no. 1 is the husband of the complainant and petitioner no. 2 is the brother-in-law of the complainant. It has been stated in the petition that petitioner no. 1 was living separately and altogether his six family members were made accused in the complaint petition.

After the complainant was examined by the court on S.A. and witnesses were examined in support of the complaint case, the learned court below found prima facie made out case under Section 498A of the Indian Penal Code and Section 3/4 of the Dowry Prohibition Act against accused Sarwan Kumar Mehta, Rajendra Prasad and Nageshwar Devi. During the pendency of criminal case accused Nageshwari Devi, mother of petitioner nos. 1 and 2 died, and as such the present prosecution is continuing against the petitioner no. 1 Sarwan Kumar Mehta and petitioner no. 2 Rajendra Prasad.

The Complainant-Opposite Party No. 2 has stated on oath that she remained in matrimonial house for one month and



accused started torturing her for demand of dowry and as such she had to leave the matrimonial home and was compelled to reside at her parental home. It has been further stated by the complainant that when she went to her parental home the husband-petitioner no. 1 came there and assured that now he will not torture her and also not make any demand of dowry, and on such assurance the complainant-opposite party no. 2 accompanied her husband and went to her matrimonial home, but in spite of assurance given by the husband-petitioner no. 1 demand of dowry and torture continued and thereafter her father came to her matrimonial home and again took her to her parental home. It has been further alleged that petitioner no. 1 came to her parental home and there also demanded Rs. 2 Lacs as dowry. It has been further alleged that the petitioner no. 1-husband demanded dowry and said that if the dowry demand is not fulfilled, he will enter into second marriage. Complainant has also alleged about illicit relationship against her husband-petitioner no. 1. The complainant has not made any specific allegation of torture and demand of dowry against petitioner no. 2. There is general and omnibus allegation against him and other family members. It has been further stated that petitioner no. 2 is living separately. It has been further submitted that



petitioner no. 1 has filed one Matrimonial Suit being Matrimonial Case No. 332 of 2011 under Section 9 of the Hindu Marriage Act for restitution of conjugal rights against the complainant in the court of Principal Judge, Family Court, Patna.

Considering the facts and circumstances of the present case and also in view of the fact that there is no specific allegation against petitioner no. 2 for demand of dowry and torture and as such continuance of present proceeding against petitioner no. 2, will be an abuse of the process of court.

In the interest of justice, the order taking cognizance against petitioner no. 2 is quashed. However, the proceeding against petitioner no. 1 shall continue.

This petition is partly allowed.

**(S. Kumar, J)**

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