

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.30955 of 2014

Arising Out of PS.Case No. -1001 Year- 2012 Thana -COMPLAINT CASE District- BANKA

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1. Gauri Shankar Das @ Rajesh Das S/o Late Lakshmi Das
 2. Smt. Sarita Devi W/o Gauri Shankar Das @ Rajesh Das Both resident of Bihariganj, P.S.- Bihariganj, Dist.- Madhepura

.... Petitioners

Versus

1. The State of Bihar
2. Prem Lata Devi D/o Sahdeo Das Resident of Sabalpur, P.S.- Panjbara, District- Banka

.... Opposite Party

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Appearance :

For the Petitioners : Mr. Salahuddin Khan
Mr. Chandra Bhushan Das
Mr. Surendra Sao
For the Opposite Party/s : Mr. Chandra Sen Prasad Singh(App)

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CORAM: HONOURABLE MR. JUSTICE ARUN KUMAR
ORAL ORDER

8 28-11-2017 Heard learned Counsel for the petitioners as well as the learned Counsel for the State. None appears on behalf of the Opposite party No. 2.

The petitioners seek quashing of the cognizance order dated 17.5.2013 passed in Complaint Case No. 1001 of 2012 by the SDJM Banka, thereby taking cognizance of the offence under Section 498A of the IPC and Section 4 of the Dowry Prohibition Act.

The brief fact giving rise to the case is that the complainant was married with Ravi Kumar Anand, son of the petitioners, on 14.7.2010. The marriage was solemnized in the Baidyanath temple at Deoghar. Thereafter she went to her matrimonial home and altogether only lived for 25 days, but all the



accused persons started making demand of One Lakh rupees cash and motorcycle and used to abuse and assault her. She left for her parents' home and now she has received a notice from the Family Court, Madhepura in Divorce Case No. 59 of 2011. It is alleged that on 10.12.2011 the complainant's husband came to her parents' home and reiterated the demand of dowry but any how on persuasion he agreed to take her back and brought her to his village and left for Delhi and lived at Gurgaon with her husband for sometime thereafter her husband left her at Deoghar bus stand.

Learned Counsel appearing on behalf of the petitioners submits that they are father-in-law and mother-in-law of the complainant. There is no specific allegation against these two petitioners with respect to making any demand of dowry or any specific instance of committing torture except omnibus allegation against them. In fact she deserted her husband so the husband filed divorce suit and the same was decreed ex parte as she did not appear after receipt of the notice as she herself admits in the complaint that notice in the divorce suit was received by her.

Contrary to that, learned Counsel appearing on behalf of the State submits that the allegation is also levelled against these petitioners also, but concedes that there is no specific allegation.

Having considered the rival submissions of both sides and on perusal of the record the Court finds that against these two petitioners, who are father-in-law and mother-in-law there is no



specific allegation of making demand of dowry and committing torture except casual reference naming all the accused persons, specific allegation is levelled against the husband. This fact is also revealed from the narration of the complaint that the marriage was solemnized at the temple. Another fact revealed from the complaint is that the husband of the complainant was working at Delhi and lived in Gurgaon and she also resided there with him. In the case of ***Geeta Mehrotra & anr. Vs. State of U.P. & others***, reported in (2012) 10 SCC 741, the Hon'ble Supreme Court has observed that mere casual reference of the names of the family members in a matrimonial dispute without allegation of active involvement in the matter would not justify taking cognizance against them overlooking the fact borne out of experience that there is a tendency to involve the entire family members of the household in the domestic quarrel taking place in a matrimonial dispute. The present complaint as par its narration lacks ingredients constituting offence under Sections 498A and under Section 4 of the Dowry Prohibition Act against petitioners who are father-in-law and mother-in-law only by way of casual reference of their names given in the list of accused persons.

So continuation of the criminal proceeding against the petitioners would be abuse of the process of the Court. Hence the entire criminal proceeding inclusive of the cognizance order dated 17.5.2013 passed in Complaint Case No. 1001 of 2012 only with respect to these two petitioners is hereby set aside.



The application stands allowed.

(Arun Kumar, J.)

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