

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.8088 of 2015

Arising out of P.S. Case No.329 Year 2013 Thana DARBHANGA COMPLAINT CASE District
DARBHANGA

- =====
1. Jamal Khan @ Shafquat Jamal Khan Son of Late Asif Khan, Resident of village- Lahwar, P.S.- Keoti, District Darbhanga
 2. Reyaz Ahmad Khan Son of Late Iftekhhar Khan, Resident of village- Mathurapur, P.S.- Sadar, District- Samastipur

.... Petitioner/s

Versus

1. The State of Bihar
2. Nikhat Khanam, wife of Faizal Khan, Daughter of Nehal Ahmad Khan Resident of village- Morwara, P.S. Biraul, District Darbhanga

.... Opposite Party/s

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Appearance :

For the Petitioners : Md. Aslam Ansari, Advocate
For the State : Mr. Anil Kumar, APP

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CORAM: HONOURABLE MR. JUSTICE ARUN KUMAR

ORAL JUDGMENT

Date: 07-12-2017

Heard learned counsel for the petitioner and the learned
APP for the State.

2. The petitioners seek quashing of the cognizance order dated 27.09.2013, passed by learned S.D.J.M., Birpur at Beginpur, Darbhanga thereby taking cognizance of the offence under Section 498A of the Indian Penal Code and also for setting aside the order dated 02.04.2014, passed by learned Sessions Judge, Darbhanga in Criminal Revision No.47 of 2014 whereby upholding the cognizance order has dismissed revision application filed by the petitioners.

3. The brief fact giving rise to the case is that the complainant was married with Faisal Khan in the year 2013, thereafter all the accused persons started making demand of Rs.1,00,000/- cash



and one motorcycle and used to torture her in that connection. Ultimately the accused persons ousted the complainant from matrimonial home keeping all her jewellerys and clothes and also assaulted her because the demand of dowry was not fulfilled.

4. Learned counsel for the petitioners submits that there is only general and omnibus allegation against these two petitioners. Petitioner no.1 is the cousin of the complainant's husband, who lives separately in Patna as he is a government employee and petitioner no.2 is the husband of the Nanad, who also lives at another place at Samastipur.

5. Having considered rival submissions and on perusal of the records, the Court finds that petitioner no.1 is cousin of the complainant's husband and petitioner no.2, the husband of the Nanad both live separately at distant places and not living with the complainant's husband. Except sweeping allegation regarding demand of dowry and torture there is no specific allegation against them, so no *prima facie* case under Section 498A of the Indian Penal Code is made out against petitioners, therefore, continuation of proceeding against petitioners would be abuse of the process of the court, so criminal proceeding inclusive of the cognizance order dated 27.09.2013, passed by learned S.D.J.M., Birpur at Beginpur, Darbhanga and subsequent criminal proceeding as well as the order



dated 02.04.2014, passed by learned Sessions Judge, Darbhanga in Criminal Revision No.47 of 2014 are hereby set aside.

6. The quashing application stands allowed.

(Arun Kumar, J.)

S.Kumar/-

AFR/NAFR	NAFR
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