

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.6339 of 2015

Arising Out of PS.Case No. -2324 Year- 2008 Thana -PATNA COMPLAINT CASE District-
PATNA

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1. Rajeev Kumar, S/o Late Dr. Bacheshwar Prasad Singh
2. Vibha Devi, W/o Rajeev Kumar
Both are Residents of Mohalla- Homiyo Foundation Magistrate Colony, Ashiyana
Nagar, P.S.- Rajeev Nagar, District- Patna

.... Petitioner/s

Versus

1. The State of Bihar
2. Samiti Kiran, D/o Ishwar Prasad Singh, resident of Mohalla- Azad Nagar, Near
Saraswati Shishu Vidyalaya Mandir, Kankarbagh, P.S.- Kankarbagh, District-
Patna

.... Opposite Party/s

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Appearance :
For the Petitioner/s :
For the Opposite Party/s :

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CORAM: HONOURABLE MR. JUSTICE ARUN KUMAR
ORAL JUDGMENT
Date: 20-12-2017

Heard learned counsel for the petitioners and learned
counsel appearing on behalf of the O.P. No. 2.

2. Petitioners seek for setting aside the impugned order
dated 08.12.2014 passed by the S.D.J.M., Patna in Complaint Case
No. 2324C of 2008 thereby summoning the petitioners to face trial
under Section 319 Cr.P.C.

3. Petitioners are elder brother of the husband of the
complainant and his wife respectively. The materials on record show
that complainant marriage was solemnized with Sanjeev Kumar on
12.05.2017 and only after 16 days of marriage, she left her
matrimonial home and went back to her parents' home for the reason



her husband had gone to Muscat (Oman) for doing service.

4. The court has gone through the entire evidence taken before charge of all four prosecution witnesses. Earlier, petitioners were made accused by complainant but the court, finding no *prima facie* case, did not issue summons against them; even at the enquiry stage there was no sufficient material transpiring against them for summoning them to face trial in the case.

5. Section 319 Cr.P.C. reads as such:

“319. Power to proceed against other persons appearing to be guilty of offence.- (1) Where, in the course of any inquiry into, or trial of, an offence, it appears from the evidence that any person not being the accused has committed any offence for which such person could be tried together with the accused, the Court may proceed against such person for the offence which he appears to have committed.

(2) Where such person is not attending the Court, he may be arrested or summoned, as the circumstances of the case may require, for the purpose aforesaid.

(3) Any person attending the Court although not under arrest or upon a summons, may be detained by such Court for the purpose of the inquiry into, or trial of, the offence which he appears to have committed.

(4) Where the Court proceeds against any person under subsection (1), then-

(a) the proceedings in respect of such person shall be commenced afresh, and witnesses re-heard;

(b) subject to the provisions of clause(a), the case may proceed as if such person had been an accused person when the Court took cognizance of the offence upon which the



inquiry or trial was commenced.”

The court’s satisfaction for issuing of summon under Section 319 Cr.P.C. should not be merely on the basis of maintaining some doubt rather there must be some cogent evidence at the inquiry stage or during trial in order to summon them for facing trial. The satisfaction must be reasonable one and the evidence showing the complicity of the accused persons.

6. In the present case, it is apparent that only after 16 days of the marriage, the complainant left the matrimonial home and when her husband left for Muscat, she went back to her parent’s home. There is no specific instance of making any demand of dowry by the petitioners and committing any kind of torture except sweeping statement. The quality of evidence before charge was the same as the evidence was at the inquiry stage. There is no sufficient material to summon the petitioners under Section 319 Cr.P.C. to face trial. Therefore, impugned order dated 08.12.2014 passed by the S.D.J.M., Patna in Complaint Case No. 2324C of 2008 is set aside. The application stands allowed.

(Arun Kumar, J)

Sujit/-

AFR/NAFR	NAFR
CAV DATE	NA
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