

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.15439 of 2014

Arising Out of PS.Case No. -1733 Year- 2013 Thana -WEST CHAMPARAN COMPLAINT
District- WESTCHAMPARAN(BETTIAH)

- =====
1. Amit Kumar @ Amit Kumar Gupta Son Of Sheoji Prasad @ Sheoji Prasad Gupta
 2. Sheoji Prasad @ Sheoji Prasad Gupta S/O Late Manulal Prasad
 3. Sawitri Devi Wife Of Sheoji Prasad @ Sheoji Prasad Gupta All Are Resident Of Mohalla- Ilamram Chowk, Bettiah, P.S.- Bettaih Town, District- West Champaran
 4. Manoj Kumar @ Manoj Kumar Gupta Son Of Late Shri Kishun Prasad
 5. Rani Devi Wife Of Manoj Kumar Both Are Resident Of Mohalla- Kotwali Chowk Bettiah, Ward No.-26, P.O.- Bettiah, P.S.-Bettaih Town, District- West Champaran
 6. Ramawati Devi Wife Of Govind Prasad Resident Of Mohalla- Khiriya Ghat, P.O.- Bettiah, P.S.- Bairiya, District- West Champaran

.... Petitioner/s

Versus

1. The State Of Bihar
2. Anjali Kumari @ Anjali Devi Wife Of Amit Kumar @ Amit Kumar Gupta, D/O Raju Kumar Gupta Resident Of Mohalla- Ilram Chowk, Bettaih, Ganj No.- 2 Ward No.-18, P.O.- Bettiah, P.S.-Bettiah Town, District- West Champaran.

.... Opposite Party/s

=====

Appearance :

For the Petitioner/s : Mr. Ajay Kumar Singh No. 1
For the Opposite Party/s : Mr. Nawal Kishor Prasad

=====

CORAM: HONOURABLE MR. JUSTICE ARVIND SRIVASTAVA

C.A.V. JUDGMENT

Date: 24-08-2017

Heard learned counsel for the parties.

Petitioners, by means of this application under section 482 of the Code of Criminal Procedure, have invoked the inherent jurisdiction of this Court with prayer to quash the order dated 17.01.2014, passed by Sub Divisional Judicial Magistrate, Bettiah, in Trial No. 839 of 2014 arising out of Complaint Case No. 1733C of 2013, whereby cognizance has been taken against the petitioners for



the offences under section 498A/34 of the Indian Penal Code and sections 3/4 of the Dowry Prohibition Act.

The contention of the learned counsel for the petitioner is that no offence against the petitioner is disclosed and the present prosecution has been instituted with mala fide intention for the purposes of harassment. They have been falsely implicated in the present case. As a matter of fact, complainant was not willing to marry the petitioner as she was in love with some other person. She still is not desirous of living with the petitioners. There is no allegation of demand of dowry or torture by the petitioners.

Learned counsel appearing for the State opposes the application by contending that there are allegations against the petitioner and no ground for quashing the entire proceedings is made out.

From perusal of the materials available on record and looking into the facts of the case at this stage, it cannot be said that no offence is made out against the petitioner. All the submissions made at bar relates to the disputed questions of fact, which cannot be adjudicated upon by this Court in exercise of power conferred under section 482 Cr. P.C. Only a prima facie satisfaction of the Court about the existence of sufficient ground to proceed in the matter is required. At this stage only prima facie case is to be seen in the light



of the law laid down by Supreme Court in cases of R.P. Kapur Vs. State of Punjab, A.I.R. 1960 SC 866, State of Haryana Vs. Bhajan Lal, 1992 SCC (Cr.) 426, State of Bihar Vs. P.P. Sharma, 1992 SCC (Cr.) 192, Zandu Pharmaceutical Works Ltd. Vs. Mohd. Saraful Haq and another (Para-10) 2005 SCC (Cr.) 283 and recently in A.R.C.I. Vs. Nimra Cerglass Technics (P) Ltd. (2016) 1 SCC 348. The submission made by the learned counsel for the petitioner call for adjudication on pure questions of fact which may be adequately gone into by the trial Court in this case. This Court does not deem it proper, and therefore cannot be persuaded to have a pre-trial before the actual trial begins. The disputed defence of the accused cannot be considered at this stage. Moreover, the petitioners have got a right of discharge through a proper application for the said purpose and he is free to take all the submissions in the said discharge application before the trial Court. The prayer for quashing the order taking cognizance is refused.

The application accordingly stands dismissed.

(Arvind Srivastava, J)

Manish/-

AFR/NAFR	NAFR
CAV DATE	29.06.2017
Uploading Date	25.08.2017
Transmission Date	25.08.2017

