

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.40516 of 2013

Arising Out of PS.Case No. -36 Year- 2012 Thana -BIDUPUR District- VAISHALI(HAJIPUR)

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1. Ram Nath Pathak Son Of Late Baleshwar Pathak R/O Village-Kaila Chak, P.S.-Bidupur, Distt-Vaishali
2. Mamta Pathak Wife Of Ram Nath Pathak R/O Village-Kaila Chak, P.S.-Bidupur, Distt-Vaishali

.... Petitioners

Versus

1. The State Of Bihar
2. Sweta Soni Wife Of Mahesh Kumar Pathak And Daughter Of Sri Janardan Thakur R/O Loma, P.S.-Tisiauta, Distt-Vaishali

.... Opposite Party

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Appearance :

For the Petitioners : Mr. Mukesh Kumar, Advocate

For the Opposite Party : Ms. Rina Sinha, APP

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CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL JUDGMENT

Date: 09-10-2017

Heard learned counsel for the petitioners and

learned counsel for the State. No one appears on behalf of the

Opposite Party No. 2.

The petitioners, in the present case, are seeking

quashing of the order dated 25.05.2013 passed by Chief

Judicial Magistrate, Vaishali at Hajipur in Bidupur P.S. Case No.

36/2012 (Tr. No. 3435/2013), by which learned Magistrate

took cognizance under Section 498A/34 and 3/4 of the Dowry

Prohibition Act.



Learned counsel for the petitioners submits that, in the present case, the petitioners, being father-in-law and mother-in-law respectively, are being unnecessarily harassed on the basis of ornamental allegations made against them in the first information report. Learned counsel further submits that, in fact, the efforts taken by this Court by sending this matter for mediation could not culminate in a fruitful result because the Opposite Party No. 2 is not cooperating and even in this Court she has not taken any stand as regards amicable settlement. He further submits that there is no material in the case diary which may warrant a view taking a prima facie case against these petitioners. This Court has perused the impugned order and the materials available on the record. In the First Information Report, there is an allegation that Rs. 2,00,000/- was taken in the account of the petitioner no. 1 by way of dowry, the learned Magistrate has, while taking cognizance, observed in his order that on perusal of the records including the original case diary, it appears that there are sufficient materials to proceed against the accused persons. Since, the case diary is not available before this Court and the matter is pending for about four years before this



Court, instead of keeping the matter pending here, this Court is of the view that the court below should proceed with the matter and fix a date for framing of charge. These petitioners shall also be given an opportunity to file an appropriate application seeking discharge, and if such an application is filed by the petitioners, the court below shall consider and dispose of the same considering all the materials and submissions of the petitioners.

So far as the order taking cognizance is concerned, this Court is not inclined to interfere with the said order, the prayer for setting aside the impugned order is refused.

With the above observations and directions, this application is disposed of.

(Rajeev Ranjan Prasad, J.)

Rajeev/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	09.10.2017
Transmission Date	09.10.2017

