

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.32719 of 2014

Arising Out of PS. Case No.-1219 Year-2012 Thana- WEST CHAMPARAN COMPLAINT
District- West Champaran

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1. Chhote Lal Chaudhary Son of Late Fal Chaudhary
 2. Narendra Chaudhary @ Torendra Kumar Chaudhary Son of Chhote Lal Chaudhary
 3. Kashi Devi wife of Chhote Lal Chaudhary
 4. Birendra Chaudhary Son of Chhote Lal Chaudhary All Resident of village - Bairiya, P.S. Bairiya, District - East Champaran

... .. Petitioner/s

Versus

1. The State of Bihar
2. Vidya Lal Sahani Son of Late Deoratan Sahani Resident of Village - Batra Tola, Chiljhapatti Ward No. 9 P.S. Kalewa District - Bara (Nepal)

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Ramchandra Sahni, Adv
For the Opposite Party/s : Mr. RAM CHANDRA SINGH (APP)

CORAM: HONOURABLE MR. JUSTICE S. KUMAR
ORAL JUDGMENT
Date : 16-08-2017

Heard learned counsel for the parties.

The present quashing application under Section 482 of the Cr.P.C has been filed for quashing the order dated 05.06.2013, passed by the learned S.D.J.M. Bettiah (West Champaran) in Complaint Case No. 1219C of 2012 (S.C. Trial No. 870 of 2013) taking cognizance of the offence punishable under Section 420 of the Indian Penal Code and Section 4 of the Dowry Prohibition Act.

Briefly stated, the fact of the case is that the complainant-Opposite Party No. 2 filed a complaint in the court



of Chief Judicial Magistrate, West Champaran at Bettiah, alleging that he had settled the marriage of his daughter-Meera Kumari with Narendra Chaudhary. The complainant in presence of witnesses paid 1,51,000/- and Rs. 2,00,000/- in first and second week respectively in the month of February to Chhote Lal Chaudhary. The complainant-Opposite Party No. 2 performed the ceremony of Pujai on 28.02.2012 at the house of the accused-petitioners. The date of marriage was fixed on 28.06.2012. It was disclosed that the son of the accused Narendra Chaudhary has got service in Bihar Police and thereafter demanded Rs. 2 Lacs more and one Hero Honda Motorcycle.

The complainant Opposite Party No. 2 was examined on S.A. by the court below, and in support of his complaint case four witnesses were examined, and on the basis of the materials available on record, the court below found *prima facie* case made out against the accused-petitioners under Section 420 of the Indian Penal Code and Section 4 of the Dowry Prohibition Act and issued summons for their appearance to face the trial.

It has been submitted on behalf of the petitioners that from the reading of the complaint petition no offence is



made out against them. The petitioner no. 1 is the father, petitioner nos. 2 and 3 are his sons and petitioner no. 4 is his wife and the whole family has been implicated in this false case. It has been further submitted that no ingredients constituting offence under Section 420 or Section 4 of the Dowry Prohibition Act is present, as such the order taking cognizance against them should be quashed. In order to constitute an offence of cheating, the intention to deceive should be in existence at the time when the inducement was made. There is no such allegation levelled against the accused-petitioners and no offence under Section 420 of the Indian Penal Code is made out. It has been further submitted that since the marriage was not solemnized with the son of accused-petitioner no. 2, no offence under Section 4 of the D.P. Act is made out. It has been placed on record that the daughter of the complainant, Meera Kumari was married with Jitendra Kumar Chaudhary on 08.08.2012, who is the another son of petitioner no. 1 and in support of the said marriage, an application for marriage under the Special marriage Act, 1964 has been annexed as Annexure-2 to this application.

Considering the facts and circumstances of the present case, continuance of present proceeding against the



petitioners will amount to an abuse on the process of court. As such the order taking cognizance dated 05.06.2013 passed by the learned S.D.J.M. Bettiah (West Champaran) in Complaint Case No. 1219C of 2012 as well as the whole proceeding arising out of the present case is quashed.

The petition is allowed.

(S. Kumar, J)

ranjan/-

AFR/NAFR	NAFR
CAV DATE	N.A.
Uploading Date	04.09.2017
Transmission Date	04.09.2017

