

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.35250 of 2014

Arising Out of PS.Case No. -3221 Year- 2012 Thana -VAISALI COMPLAINT CASE District- VAISHALI(HAJIPUR)

=====

1. Ramnandan Singh S/o Late Sakaldeo Singh Resident of Village Farheda, P.O. Phuldih, P.S. Rupow, District Nawada.

2. Bimla Devi W/o Ramanand Singh Resident of Village Farheda, P.O. Phuldih, P.S. Rupow, District Nawada.

.... Petitioners

Versus

1. The State of Bihar.

2. Premlata Devi W/o Santosh Singh @ Sonu Singh, D/o Dinesh Sharma Resident of Village Shuvai, P.S. Sadar Hajipur, District Vaishali at Hajipur.

.... Opposite Party

=====

Appearance :

For the Petitioner	:	Mr. Dinu Kumar, Advocate Mr. Arvind Kumar Sharma, Advocate Ms. Neeha Kumari, Advocate
For the Opposite Party:		Mr. Lakshmikant Tiwary, Advocate Mr. Nitesh Kumar, Advocate
For the State	:	Mr. B.N. Pandey, Additional Public Prosecutor

=====

CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL JUDGMENT

Date: 24-08-2017

Learned counsel for the petitioners files a supplementary affidavit stating there in that the petitioner no. 2 namely, Bimla Devi died on 20.10.2016.

In this view of the matter, he confines his prayer in the present application only with respect to the petitioner no. 1.

Heard learned counsel for the petitioner,



learned counsel for the complainant/Opposite Party No. 2 and Sri B.N. Pandey, Incharge, Additional Public Prosecutor for the State.

The petitioner is the father-in-law of the complainant. He has moved this Court for quashing of the order dated 09.11.2012, passed by the learned Sub-Divisional Judicial Magistrate, Vaishali at Hazipur, in Complaint Case No. 3221/2012, by which he has taken cognizance of the offences under Section 498(A) of the Indian Penal Code read with Section 4 of the Dowry Prohibition Act and summoned the accused persons including the present petitioner to appear.

For the purpose of quashing of the impugned order learned counsel for the petitioner has, at the outset, drawn my attention towards the fact that in same set of allegations with some variance in respect to the manner in which there was a demand of dowry, the complainant/Opposite Party No. 2 firstly filed a complaint case being C.P. Case No. 1687/2010 in the court of learned Chief Judicial Magistrate, Dhanbad. In the said case, vide order dated 15.02.2011, cognizance was taken under Section 498(A) & 494 of the Indian Penal Code against the accused



persons. The present petitioner is also an accused in the said complaint case. The second complaint has been filed after about a period of two years giving rise to the present case being Complaint Case No. 3221/2012 in the court of learned Chief Judicial Magistrate, Vaishali at Hazipur. In the second complaint also cognizance has been taken and the order taking cognizance dated 09.11.2012 is the impugned order in the present case.

Learned counsel for the petitioner submits that a bare perusal of the first complaint petition (Annexure 4 to the present application) would show that in the said case there was an allegation that the accused persons came at Jogta, Dhanbad, and asked the parents of the complainant that if he would deposit Rs. 1 lac only in the name of each/three daughters then the complainant can live at their house peacefully otherwise she will not be allowed to live there. The allegation in the said complaint case is also of using vulgar and filthy language towards complainant's parents. It is also alleged that the husband of the complainant has solemnized a second marriage with the accused no. 6.

On the contrary, according to learned counsel,



the present complaint bearing No. 3221/2012 would show that in this case the complainant has shown the cause of action right from 01.05.1995, i.e., date of marriage, and the allegations are that right from beginning, after marriage, the accused persons, in connivance with each other, were demanding a sum of Rs. 3 lacs for business purpose.

Learned counsel for the petitioner further submits that there is no statement by way of an allegation in the second complaint which can be shown as a fresh cause of action for the complainant/Opposite Party No. 2 in order to maintain the second complaint. Thus, according to learned counsel the second complaint was filed only with a mala fide intention to harass the whole family members of the husband.

On the other hand, learned counsel for the complainant/Opposite Party No. 2 opposes the application and submits that there is no illegality or infirmity in the impugned order. The learned Magistrate has taken cognizance of the offences on the basis of materials available



on record and hence no interference is called out.

Having heard learned counsel for the parties as also learned Additional Public Prosecutor for the State and upon perusal of the record, this Court comes to a conclusion that in fact the second complaint petition giving rise to complaint case no. 3221/2012 (Annexure 1 to the present application) has been filed much after the cognizance was taken by the learned Magistrate at Dhanbad in C.P. Case No. 1687/2010. Both the complaints are on the same line, however, with some difference to the extent that in the first complaint there is an allegation that the demand of Rs. 3 lacs was being made in different form for the purpose of depositing the same in the name of the three daughters, but in the present complaint, the allegations have been improved to say that the demand of dowry was there from the very beginning since marriage on 01.09.1995, that too for the purpose of business. There is no allegation in the complaint petition which can show a fresh cause of action for the complainant/Opposite Party No. 2 to maintain the second complaint. Even, otherwise, this Court finds that the marriage is of the year 1995 and after marriage three daughters were born to the parties. The story as made out in



the complaint petition (Annexure 1) that there was a demand of Rs. 3 lacs right from beginning for business purpose is in total contradiction to her own statement of the complainant/Opposite Party No. 2 made in the first complaint petition, and, therefore, the same cannot be believed by this Court.

This court has been informed that, so far as the first complaint is concerned, the same is already going on in the court of learned Chief Judicial Magistrate, Dhanbad.

In the facts and circumstances of the case, in the opinion of this Court, the second complaint is gross abuse of the process of the Court and it would only be in the interest of justice to quash the order taking cognizance dated 09.11.2012, passed by learned Sub-Divisional Judicial Magistrate, Vaishali at Hazipur, in Complaint Case No. 3221/2012. The impugned order is, therefore, set aside as regards the present petitioner.

Accordingly, this application is allowed.

(Rajeev Ranjan Prasad, J.)

Rajeev/-

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

