

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.3022 of 2015

Arising Out of PS.Case No. -2 Year- 2014 Thana -AURANGABAD COMPLAINT CASE District-
AURANGABAD

- =====
1. Pravej Khan Son of Md. Kasim
 2. Sahin Praveen @ Munni, Wife of Pravej Khan Both residents of village Sataua,
P.S. - Giriyak, District - Nalanda.

.... Petitioners

Versus

1. The State of Bihar.
2. Nigar Naz Wife of Md. Naushad Khan, D/o Rustam Ali Khan, Resident of
Ansar Nagar, Masjid Gali, Nawada, P.S. - Nawada, District Nawada at present
residing at Kalami Mohalla, Aurangabad, P.S. & District - Aurangabad.

.... Opposite Parties

with

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Criminal Miscellaneous No. 4409 of 2015

Arising out of PS.Case No. -2 Year- 2014 Thana -AURANGABAD COMPLAINT CASE District-
AURANGABAD

- =====
1. Master Jamaiyat Hussain @ Md. Jamiyat Hussain Khan S/o Late Nabi Bux
Khan
 2. Julekha Khatoon @ Julaikha Khatoon W/o Master Jamaiyat Hussain @ Md.
Jamiyat Hussain Khan, Both are residents of Mohalla.-Ansar Nagar, Masjid
Gali, P.S. Nawada, Distt.-Nawada

.... Petitioners

Versus

1. The State of Bihar
2. Nigar Naz Wife of Md. Nausad Khan, D/o Rustam Ali Khan Residents of -
Ansar Nagar, Masjid Gali, Nawada, P.S-Nawada, Distt.-Nawada, at present
residing at Kalami Mohalla, Aurangabad, P.S+Distt.-Aurangabad.

.... Opposite Parties

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Appearance :

(In Cr.Misc. No.3022 of 2015)

For the Petitioner : Mr. Durgesh Nandan, Advocate

For the State : Ms. Asha Devi, APP

(In Cr.Misc. No.4409 of 2015)

For the Petitioners : Mr. Durgesh Nandan, Advocate

For the State : Mr. Prem Kumar Jha, APP

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CORAM: HONOURABLE MR. JUSTICE ARUN KUMAR

ORAL JUDGMENT

Date: 08-12-2017

Heard learned counsel for the petitioners as well as
learned APP for the State.



2. The same impugned order, i.e., the cognizance order dated 04.12.2014, passed by learned S.D.J.M., Aurangabad in Complaint Case No.2 of 2014, Trial No.2229 of 2014 is challenged by petitioners of both the quashing applications, so these two quashing applications are disposed of by the common judgment.

3. The petitioners seek quashing of the cognizance order dated 04.12.2014, passed by learned S.D.J.M., Aurangabad in Complaint Case No.2 of 2014, Trial No.2229 of 2014 whereby the learned S.D.J.M., Aurangabad has taken cognizance of the offence under Sections 498A, 379 and 504 of the Indian Penal Code as well as under Sections 3/4 of the Dowry Prohibition Act and issued summons to stand trial in the case.

4. The brief facts giving rise to the case is that accused persons started making demand of further dowry after solemnization of the marriage of the complainant with Md. Naushad Khan. The marriage was solemnized on 16.02.2012. The accused persons were making further demand of Rs.2,00,000/- cash and one Alto Car and all used to torture her in that connection and it is alleged that on 27.08.2012 her husband, father-in-law, mother-in-law, Nanad and brother-in-law all assaulted her, snatched her jewellerys and kicked her out of the matrimonial home.

5. Learned counsel for the petitioner submits that the



petitioners of Cr. Misc. No.3022 of 2015 are married Nanad and her husband, who reside in Kolkata as the brother-in-law of the complainant is an employee of railway and there is only general and omnibus allegation against these petitioners and places reliance to the decision of *Geeta Mehrotra & Anr. vs. State of U.P. & Anr.*, reported in *2013 (1) PLJR 10 (SC)*.

6. Learned counsel appearing on behalf of the State submits that there is specific allegation against the father-in-law, mother-in-law and the Nanad and refers the judgment of the *Geeta Mehrotra* (supra) case and submits that the ratio decided in the case is that FIR disclosing mere casual reference of the names of the family members in a matrimonial dispute without any allegation of their active involvement in the offence, in such situation there is no sufficient material for taking cognizance; whereas in the present case there is specific allegation against all the petitioners except the *Nandosi*.

7. Having considered the rival submissions and on perusal of the records, the Court finds that the names of Pravej Khan, Sahin Praveen, the married Nanad and her husband have been mentioned as casual reference and the complainant in her examination on SA also admits that the husband of the Nanad is a railway employee and lives in Kolkata, so mere casual reference of the names of these two



petitioners do not make out a prima facie case under Section 498A of the Indian Penal Code, so the criminal proceeding against them inclusive of the cognizance order dated 04.12.2014, passed in Complaint Case No.2 of 2014, Trial No.2229 of 2014, pending in the court of learned S.D.J.M., Aurangabad is set aside only with respect to these two petitioners.

8. Hence Cr. Misc. No.3022 of 2015 stands allowed.

9. However, as far as rest two petitioners of Cr. Misc. No.4409 of 2015, the father-in-law and mother-in-law are concerned, as there is specific allegation of their active participation in making demand of dowry reflected from the statement made by the complainant in her examination on SA; so there is sufficient material to take cognizance against these two, so criminal proceeding will continue against them.

10. Accordingly, Cr. Misc. No.4409 of 2015 stands dismissed.

(Arun Kumar, J.)

S.Kumar/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	15.12.2017
Transmission Date	15.12.2017

