

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.45508 of 2014

Arising Out of PS.Case No. -37 Year- 2014 Thana -SAHARSA COMPLAINT CASE District-
SAHARSA

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Arun Kumar @ Arun Kumar Yadav Son of Late Indradeo Yadav Resident
of-Gonar Lal Lane, Jogsar, P.S.-Adampur, District-Bhagalpur.

.... Petitioner/s

Versus

1. The State of Bihar
2. Lalita Bharti Daughter of-Dr. Upendra Prasad Yadav Resident of-
Gautamnagar Gangajala, P.S. & District-Saharsa.

.... Opposite Party/s

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Appearance:

For the Petitioner/s : Mr. Subhash Kumar Jha, Advocate

For the Opposite Party/s : Mrs. Indu Kumari Srivastava (APP)

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CORAM: HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH
ORAL ORDER

5 01-11-2017 Heard the learned counsel for the petitioner and learned
A.P.P. for the State.

At the outset, it is stated that the notices have been
validly served on the plaintiff i.e. the opposite party no. 2.
However, she has chosen not to appear before this Court.

The facts of the case are that the opposite party no. 2
herein filed a Complaint Case No. 37-C of 2014 on 08.01.2014
against her husband, her in-laws and several relatives and friends
inter alia stating therein that the marriage was performed on
27.04.2008 wherein various gifts in terms of cash/draft were given
to various persons and some amount was also given by way of



gift to the petitioner who happens to be the brother-in-law of the husband of the opposite party no. 2. Apart from the said averment in the complaint petition there is no specific allegation against the petitioner herein with regard to any demand of dowry.

The learned trial court by an order dated 12.02.2014 has taken cognizance for the offences under Sections 498A, 504 and 494 of the Indian Penal Code as well as Sections 3 of the Dowry Prohibition Act in a casual manner without any application of mind, which is apparent from the said order dated 12.02.2014.

The learned counsel for the petitioner submits that apart from there being no specific allegation of demand of dowry as against the petitioner herein, even otherwise no case is made out for the offences under which cognizance has been taken as against the petitioner herein, as is apparent from a bare perusal of the complaint petition. It is further submitted that this Hon'ble Court has quashed the Complaint Case No. 37-C of 2014 as far as the wife of the petitioner is concerned by an order dated 10.11.2014 passed in Criminal Misc. No. 37145 of 2014. Similarly, the aforesaid complaint has also been quashed in relation to one Sunil Kumar Yadav and Mamta Kumari by this Court by order dated 10.11.2014 passed in Criminal Misc. No. 37003 of 2014.



It is generally seen that most of the complaints under Section 498A of the Indian Penal Code are filed in the heat of the of the moment over trivial issues with oblique motives and the general tendency is to implicate not only the husband but all his immediate relations, friends and well-wishers for oblique purposes, hence the need for scrutiny of the allegations levelled in such complaints with great care and circumspection.

It is a trite law that implication of the relatives of the husband with a view to harass and humiliate them without there being any material to connect the said husband's relatives with the allegations, amounts to abuse of the process of law, hence such complaints are liable to be quashed since it would be unfair to compel such relatives of the husband to undergo the rigors of a criminal trial. Reference in this connection be had to a judgment reported in **(2010) 7 SCC 667 (Priti Gupta vs. State of Jharkhand)**, which has been relied upon by the learned counsel for the petitioner as well.

For the reasons mentioned hereinabove as also the fact that the opposite party no. 2 no longer appears to be interested in pursuing the complaint case as against the petitioner herein since she has failed to appear despite valid service of notice, I deem it fit



and appropriate to quash the order dated 12.02.2014 passed in Complaint Case No. 37C of 2014, by the learned Sub-Divisional Judicial Magistrate, Saharsa and further the criminal proceedings emanating therefrom are also set aside.

The petition is allowed.

(Mohit Kumar Shah, J)

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