

**IN THE HIGH COURT OF JUDICATURE AT PATNA**

**Criminal Miscellaneous No.19186 of 2014**

Arising Out of Case No. -2222 Year- 2013 Thana -PURNIA COMPLAINT CASE District-  
PURNIA

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1. Hansraj Hans, Son of Sri Ram Chandra Bhagat

2. Ram Chandra @ Ram Chandra Bhagat, Son of Kali Prasad Bhagat

Both residents of village- Banmankhi Sonar Path, Police Station- Banmankhi in  
the District of Purnea

.... .... Petitioner/s

Versus

1. The State of Bihar

2. Pritam Chaudhary, W/o Devraj Dev, D/o Dr. Praveen Kumar Chaudhary,  
residing at Mohalla- Navratan, Police Station- K. Hat in the district of Purnea.

.... .... Opposite Party/s

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**Appearance :**

For the Petitioner/s : Mrs. Anita Kumari Singh, Adovocate.

For the Opposite Party/s : Mr.

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**CORAM: HONOURABLE MR. JUSTICE ARUN KUMAR**

**ORAL JUDGMENT**

**Date: 25-07-2017**

Heard learned counsel for the petitioners and the State.

2. The petitioners have filed this application, under  
Section 482 of the Code of Criminal Procedure, 1973 seeking  
quashing of the order dated 20.12.2013 passed by the S.D.J.M.,  
Purnea in Complaint Case No. 2222 of 2013, thereby taking  
cognizance of offence under Section 498A of the Indian Penal Code  
as well as Sections 3 and 4 of the Dowry Prohibition Act and directed  
to issue summons to stand trial.

3. Short facts giving rise to this case is that complainant,



namely, Pritam Choudhary marriage was solemnized on 22.11.2000 with Devraj Dev, an I.A.S. Probationer, son of petitioner no. 2. It is alleged that at the time of negotiation, prior to marriage, accused persons made demand to purchase a piece of land, accordingly, 14 decimals of land was purchased by the father of the complainant in the name of wife of Ram Chandra Bhagat, the petitioner no. 2 and Rs. 15 lacs was also given for marriage expenses. It is alleged that at the time of *Bidai*, petitioners no. 1 and 2 made further demand of cash, but the father of the complainant persuaded the father-in-law, petitioner no. 2 for *Bidai* only thereafter *Bidai* was done but soon after the husband of the complainant started torturing and assaulting her for realizing further demand of dowry of Rs. 2 lacs. Complainant was taken by her husband to Chennai, at the place of his posting where she gave birth to a male child on 28.08.2001 but behaviour of the complainant's husband not changed. In the year 2005, she gave birth to another male child and her husband forcibly took Rs. 1 lac from her father and her father-in-law always used to play role of a villain. Complainant suffered humiliation and torture but nursed hope that her husband's attitude would change with the passage of time. The father of the complainant again purchased some land and flats in the name of her husband to satisfy him. It is alleged that her husband was deputed in Bihar for some period of time but here also she was time and again



subjected to assault and torture. In the year 2011, her husband again made demand of Rs. 10 lacs from her father and the said demand was also shared by her husband's brother Hansraj Hans. The father of the complainant transferred money to two different banks' accounts, but the torture and harassment continued against her. It is alleged that on 11.06.2013, complainant was assaulted by her husband and his brother Hansraj Hans at Chennai. She sent information in relation to the incident to her father, who rushed to Chennai and persuaded her husband to maintain cordial conjugal life and to think about the future of the children. When her parents returned back, her husband left the place as he was put under suspension and she remained there for a month at Chennai but ultimately having no option, left Chennai and came back to her parent's home.

4. Learned counsel appearing on behalf of the petitioners submits that petitioners have been falsely implicated in this case maliciously with ulterior motive for wrecking vengeance from the petitioners due to personal grudge and it was complainant who used to misbehave with her husband as she was not inclined to live with her husband and she was not allowing the petitioners to live with her husband even while he was posted as District Magistrate at Bettiah in Bihar. Due to bad attitude of the complainant, her husband filed a suit for dissolution of marriage i.e., Matrimonial Case No. 201 of 2012 on



15.10.2012 which is still pending. Thereafter, this complaint case as well as maintenance case has been filed by the wife. It is also submitted that husband of the complainant was put under suspension due to complaint made by her. Learned counsel submits that petitioners, who are brother and father of the husband of the complainant, lived at their native place while complainant's husband was posted in Tamilnadu and her husband filed a divorce suit on account of that she was carrying pregnancy before marriage and matter regarding DNA test to ascertain the parentage of the first child is pending before the Family Court. Learned counsel has also placed reliance in case of *Preeti Gupta vs. State of Jharkhand* reported in **(2010) 7 SCC 667** and submitted that now there is general tendency to implicate all family members of the husband. He also placed reliance in the case of *Badri Chaubey & Anr. Vs. The State of Bihar & Ors.* reported in **2007(2) PLJR 721**.

5. Learned counsel appearing on behalf of the complainant/O.P. No. 2 submits that there is specific allegation against these two petitioners i.e., the brother and father of the husband of the complainant, with regard to making demand of dowry and torture. Learned counsel further refers to complaint and submits that there is specific allegation against the father and brother of the husband of the complainant for making demand of dowry and torture.



Learned counsel further refers to paragraphs no. 3, 5 and 11 of the complaint and also refers to paragraph no. 4 of the statement of the complainant taken on oath having specific allegation against them that just after marriage Hansraj Hans and Ram Chandra Bhagat, both petitioners, made demand of Rs. 2 lacs and also referred paragraphs no. 7 and 11 of the statement of the complainant that, on 11.06.2013, Hansraj Hans made demand of further dowry. He, however, submits that at the enquiry stage four witnesses have been examined inclusive parents of the complainant stating specific instances of making demand by the petitioners and causing torture and harassment to her daughter, the complainant.

6. Having considered rival submissions and on perusal of record, the Court finds that petitioners are brother and father of the husband of the complainant and on perusal of complaint and the statement of enquiry witnesses, the Court finds that it is not that no *prima facie* case, under Section 498A of the Indian Penal Code, is made out against these two petitioners. It is not the case that there is no specific allegation or evidence at the enquiry stage against these two petitioners relating to making demand of dowry and torture. Since there is specific allegation against these two petitioners as well as evidence at the enquiry stage, therefore, it is not appropriate to set aside the criminal proceeding inclusive of the cognizance order. In



case of specific allegation and evidence at the enquiry stage coming against the accused, proper course is to put them on trial in order to ascertain the truth or falsity of the allegation. Accordingly, this application stands dismissed.

**(Arun Kumar, J)**

Sujit/-

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