

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.35581 of 2014

Arising Out of PS.Case No. -1 Year- 2013 Thana -MAHILA P.S. District- BHAGALPUR

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Bishwajit Kumar S/o Shri Pramod Kumaar Dubey resident of village- Sant Nagar,
P.S.- Godda, Distt.- Godda (Jharkhand).

.... Petitioner/s

Versus

1. The State of Bihar
2. Subhadra Kumar @ Gunja Kumari D/o Shri Upendra Deo Shukia R/o village-
Surkhikai, Tilka Manjhi, P.S.- Barari, Distt.- Bhagalpur

.... Opposite Party/s

with

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Criminal Miscellaneous No. 10792 of 2014

Arising Out of PS.Case No. -1 Year- 2013 Thana -MAHILA P.S. District- BHAGALPUR

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1. Pramod Kumar Dubey S/O Late Bankim Chandra Dubey
 2. Savitri Devi W/O Pramod Kumar Dubey
 3. Abhishek Dubey S/O Pramod Kumar Dubey All Are Resident Of Village- Satya
Nagar, P.S.- Godda, Distt.- Godda (Jharkhand)
 4. Aparna Dubey @ Aparna Devi @ Anpurna Devi W/O Amit Kumar Dubey
 5. Amit Kumar Dubey S/O Sri Shashi Bhushan Dubey R/O Village- Sabalbiga,
P.S.- Sikandara, Distt.- Jamui
 6. Jaya Pathak W/O Rakesh Pathak
 7. Rakesh Pathak S/O Shri Balram Pathak R/O Village- Amawan, Nakachhed, P.S.-
Gopalagnj, Distt.- Gopalganj

.... Petitioner/s

Versus

1. The State Of Bihar
2. Subhadra Kumar @ Gunja Kumari D/O Shri Upendra Deo Shukla R/O Village-
Surkhikal, Tilka Manjhi, P.S.- Barari, Distt.- Bhagalpur

.... Opposite Party/s

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Appearance :

(In Cr.Misc. No.35581 of 2014)

For the Petitioner/s : Mr. Pravin Kumar Sinha, Advocate

For the Opposite Party/s : Mr. H.A. Khan (APP)

(In Cr.Misc. No.10792 of 2014)

For the Petitioner/s : Mr. Pravin Kumar Sinha, Advocate

For the Opposite Party/s : Mr. Umeshnand Pandit (APP)

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CORAM: HONOURABLE MR. JUSTICE S. KUMAR

ORAL JUDGMENT

Date: 06-12-2017



These two Criminal Miscellaneous petitions have been filed under Section 482 of Cr.P.C. for quashing the order dated 14.12.2013 passed by the Chief Judicial Magistrate, Bhagalpur in Mahila P.S. Case No. 01 of 2013 by which cognizance under Section 498 (A) read with 34 of I.P.C. and 3/4 of Dowry Prohibition Act has been taken against the petitioners.

Briefly stated, the facts of the case is that the F.I.R. was instituted by informant opposite party No. 2 Subhadra Kumar @ Gunja Kumari before the S.H.O., Mahila P.S. on 17.01.2013 stating therein that she was married with Bishwajit Kumar (Petitioner) of Criminal Miscellaneous No. 35581 of 2014 on 08.02.2012 at Hotel Paradise, Bhagalpur. At the time of marriage, gifts and other household articles valued at Rs. 14 lacs was given to her in laws. After reaching her matrimonial house, her husband and other members of family started demanding a car or Rs.5 lacs and on account of non-fulfillment of said demand, she was subjected to torture and harassment and thereafter she returned to Bhagalpur. After sometime, she went to Godda but torture and harassment continued against her and when her father came, they also misbehaved with him. On such allegations made in the written complaint, F.I.R. was drawn as Mahila P.S. Case No. 01 of 2013 dated 17.01.2013 under Section 498 (A) 34 of I.P.C. and 3/4 of Dowry Prohibition Act.



Learned counsel for the petitioners submits that they are innocent and have been falsely implicated in this case. A Matrimonial Suit bearing O.P. No. 204 of 2013 was filed by the husband of informant opposite party No. 2 under Section 9 of the Hindu Marriage Act, 1955, for restitution of conjugal rights and thereafter the present criminal case was filed by the informant as a counter blast to said case. Informant opposite party No. 2 does not want to reside with her husband. Husband of the opposite party No. 2 and petitioner of Criminal Miscellaneous No. 35581 of 2014 is a member of Indian Air Force and informant opposite party No. 2 had gone there to live with him but on account of differences of mind set and temperament both could not live together and informant opposite party No. 2 has roped all the family members of husband in the Criminal Case instituted by her. Petitioner Nos. 4 to 7 are close relatives and had come to attend marriage only and thereafter they have returned to their home place where they are in service, still they have been implicated as accused in the case.

In Criminal Miscellaneous No. 10792 of 2014, petitioner No. 1 is father-in-law, petitioner No. 2 is mother-in-law, petitioner No. 3 is brother in law, petitioner no. 4 is sister in law, petitioner No. 5 is brother in law, petitioner No. 6 is sister in law and petitioner no. 7 is brother in law.



It has been submitted on behalf of learned counsel for the petitioners that there is no specific allegation of any overt act against them. The allegations are of general, omnibus and vague in nature.

I have gone through the contents of F.I.R. in which specific allegation of demand of dowry and for non-fulfillment of which allegations of torture and harassment has been made against husband only. Husband is a member of Indian Force and is posted in Secunderabad and all efforts made for reconciliation of their married life has failed and thereafter informant opposite party has filed F.I.R in which her husband including all other family members have been made accused.

Considering the facts and circumstances of present case, Criminal Miscellaneous No. 10792 of 2014 is allowed and order taking cognizance dated 14.12.2013 passed by Chief Judicial Magistrate, Bhagalpur in Mahila P.S. Case No. 01 of 2013 for the offence under Section 498(A)/34 I.P.C. and 3/4 of Dowry Prohibition Act is quashed. However, in Criminal Miscellaneous No. 35581 of 2014 filed by Bishwajit Kumar, husband of the informant opposite party, no interference is required by this Court and, as such, order dated 14.12.2013 passed by Chief Judicial Magistrate, Bhagalpur in Mahila P.S. Case No. 01 of 2013 instituted for the offences under



Section 498(A)/34 I.P.C. and 3/4 of Dowry Prohibition Act is not interfered with and as such Criminal Miscellaneous No. 35581 of 2014 is dismissed.

(S. Kumar, J)

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AFR/NAFR	
CAV DATE	
Uploading Date	
Transmission Date	

