

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.42507 of 2013

Arising Out of PS.Case No. -3039 Year- 2011 Thana -PATNA COMPLAINT CASE District- PATNA

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1. Jitendra Kumar S/O Eknath Thakur Resident Of Barmasiya (Durga Mandap),
P.S- Dhansar, District- Dhanbad, At Present Nepali Para Hindu Hindi H Igh
School, Mohalla Labour Hat, P.S- Kokowane, P.O- Durgapur, District- Burdwan
(West Bengal)
2. Eknath Thakur S/O Late Kamal Thakur Resident of barmasiya (Durga Mandap),
P.S- Dhansar, District- Dhanbad.

.... Petitioner/s

Versus

1. The State Of Bihar
2. Ankita Sharma D/O Mahesh Kumar Sharma And W/O Jitendra Kumar Resident
Of Mohalla- Chhoti Badalpura Khagaul, P.S- Khagaul, District- Patna, At Present
Nohsa More, P.S- Fulwari Sharif, District- Patna.

.... Opposite Party/s

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Appearance :

For the Petitioner/s : None

For the State : Dr. Mayanand Jha, APP

For Opposite Party No.2 : None

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CORAM: HONOURABLE MR. JUSTICE ASHWANI KUMAR SINGH

ORAL JUDGMENT

Date: 08-04-2017

Despite repeated calls, neither the advocate for the
petitioner nor the advocate for the opposite party no.2 has appeared to
contest the matter.

2. Perused the materials available on record and heard Dr.
Mayanand Jha, learned Additional Public Prosecutor for the State.

3. This application under Section 482 of the Code of
Criminal Procedure (for short "Cr.P.C.") has been filed for
quashing the order dated 27.03.2012 passed by the Sub-divisional
Judicial Magistrate, Patna in Complaint Case No. 3039(C)/2011



whereby the petitioners have been summoned to face the prosecution for the offence punishable under Section 498-A of the Indian Penal Code and Section 4 of the Dowry Prohibition Act.

4. According to the complainant, she was married to the petitioner no. 1 on 28.06.2009 as per Hindu Rites and Customs and after marriage, she went to her matrimonial house and lived there for some time. It is alleged that her parents had given gift on the occasion of marriage as per their capacity, but the petitioners were not satisfied with whatsoever was given to her at the time of her marriage. They started subjecting her to cruelty mentally and physically. They also demanded motorcycle, freeze, cash, etc. She informed her father who tried to persuade the accused persons but they did not spare her and lastly on 06.11.2011, they turned her out of the matrimonial house.

5. The complainant supported the allegation in her statement made on oath. In course of inquiry, witnesses, namely, Mahesh Kumar Sharma and Kanti Sharma also supported the allegation of the complainant made in the complaint.

6. After going through the materials available on record, the learned Magistrate summoned the petitioners in exercise of power conferred under Section 204 of the Cr.P.C. vide impugned order dated 27.03.2012.



7. The contention of the petitioners in the application is that the entire allegations made in the complaint are false and baseless. The complainant is not ready to reside in her matrimonial house at Dhanbad. She had voluntarily left her matrimonial house and despite the steps taken by the petitioners to persuade her to come back, she refused to reside with her husband.

8. The other contention of the petitioners is that the petitioner no. 1 has filed a matrimonial suit in the Family Court at Dhanbad in which notice was issued to the complainant which was duly served upon her, but she refused to take notice and appear in the court and after coming to know about the matrimonial suit, the complainant has filed the instant case at Patna making frivolous allegations against the petitioners.

9. Dr. Mayanand Jha, learned Additional Public Prosecutor appearing for the State submitted that there is specific allegation in the complaint that after marriage the complainant was regularly subjected to harassment for non-fulfillment of demand of dowry. He submitted that lastly on 06.11.2011 the accused persons driven out the complainant from her matrimonial house. He submitted that part of the occurrence had also taken place at Patna and hence the court at Patna has got territorial jurisdiction to deal with the matter.



10. Having perused the complaint and heard Dr. Mayanand Jha, learned Additional Public Prosecutor, I find no illegality in the order passed by the learned Magistrate whereby the petitioners have been summoned to face trial. The defence of the petitioners can only be looked into at the appropriate stage of trial.
11. In that view of the matter, the application is dismissed.

(Ashwani Kumar Singh, J)

Pradeep/-

AFR/NAFR	NAFR
CAV DATE	N.A.
Uploading Date	08-04-2017
Transmission Date	08-04-2017

