

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.10575 of 2012

Arising Out of PS.Case No. -142 Year- 2011 Thana -GAYA MUFFSIL District- GAYA

1. Anita Ram@Anita Raj W/O Kulendra Kumar R/O Vill. Koiyribigha, P.S. Grua, Distt. - Gaya

.... Petitioner/s

Versus

1. The State Of Bihar
2. Kaushalya Devi W/O Mr. Krishna Prasad R/O Moh. Mandraj Bigha, P.S. Delha, District - Gaya

.... Opposite Party/s

with

Criminal Miscellaneous No. 19436 of 2013

Arising Out of PS.Case No. -142 Year- 2011 Thana -GAYA MUFFSIL District- GAYA

1. Durgesh Kumar S/O Sri Kameshwar Prasad Permanent Resident Of Mohalla- Janakpur, P.S.- Mufassil, District- Gaya.

.... Petitioner/s

Versus

1. The State Of Bihar
2. Kaushalya Devi W/O Mr. Krishna Prasad R/O Moh- Mandraj Bigha, P.S.- Delha, Dist.- Gaya

.... Opposite Party/s

with

Criminal Miscellaneous No. 12853 of 2015

Arising Out of PS.Case No. -142 Year- 2011 Thana -GAYA MUFFSIL District- GAYA

1. Kameshwar Prasad S/o Late Ram Krishna Mahton, Resident of Mohalla- Janakpur, P.S.- Mufassil, District- Gaya
2. Smt. Kanti Devi, W/o Kameshwar Prasad, Resident of Mohalla- Janakpur, P.S.- Mufassil, District- Gaya

.... Petitioner/s

Versus

1. The State of Bihar
2. Kaushalya Devi, W/o- Mr. Krishna Prasad, R/o Moh- Mandraj Bigha, P.S.- Delha, Dist.- Gaya

.... Opposite Party/s



Appearance :

(In Cr.Misc. No.10575 of 2012)

For the Petitioner/s : Mr. Amaresh Kumar Sinha

For the Opposite Party/s : Mr. Rajan Sahay

(In Cr.Misc. No.19436 of 2013)

For the Petitioner/s : Mr. Amaresh Kumar Sinha

For the Opposite Party/s : Mr. Rajan Sahay

(In Cr.Misc. No.12853 of 2015)

For the Petitioner/s : Mr. Amaresh Kumar Sinha

For the Opposite Party/s : Mr. Rajan Sahay

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CORAM: HONOURABLE MR. JUSTICE SANJAY KUMAR

ORAL JUDGMENT

Date: 07-09-2017

These applications have been filed to quash the F.I.R. of Mufassil P.S. No. 142 of 2011 as well as order dated 13.02.2013 passed by the learned Chief Judicial Magistrate, Gaya in Mufassil P.S. Case 142 of 2011 for the offence under Sections 420, 504 and 427/34 of the Indian Penal Code and Section 3 /4 of the Dowry Prohibition Act.

2. Heard both sides.

3. The petitioners of Criminal Miscellaneous Nos. 10575 of 2012 and 19436 of 2013 are sister and brother of the husband of the complainant (Opposite Party No. 2) whereas the petitioners of Criminal Miscellaneous No. 12853 of 2015 are the parents-in-laws.

4. The facts in brief is that the complainant (Opposite Party No. 2) filed a complaint case on the file of the learned C.J.M alleging therein that after negotiation, the marriage of her daughter Shalini Sweta was finalized with Brajesh Kumar, who is son of the petitioners of Criminal Miscellaneous No. 12853 of 2015 and brother of



remaining petitioners of Criminal Miscellaneous Nos. 10575 of 2012 and 19436 of 2013. After finalization of marriage, the family of the complainant gave gold ornaments, clothes and cash amount of Rs. 5,00,000/- for purchasing other articles. The date of marriage was fixed on 08.06.2011 and for the purpose of marriage, the complainant booked Hotel Palm Garden Katari Hill, Gaya and Crockery from Bikka Crockery House, Nai Godown, Gaya. She made advance to several persons in connection with marriage preparation. It has been alleged that on the date of marriage at about 2 P.M., accused persons informed that until an amount of Rs. 5,00,000/- and an Alto car is not given to them, the BARAT will not proceed. Thereafter, the complainant visited at the place of accused persons and told them about all the preparations of marriage, but the accused persons refused to perform marriage and misbehaved with the informant and his witnesses. It has been further submitted that the accused persons handed over a blank cheque duly signed by Brajesh Kumar to the complainant to meet the expenditure, which was spent by her in preparation for the marriage ceremony. The accused persons have thus cheated the complainant and committed breach of trust by retaining the amount, which was given to them as expenditure towards purchasing the articles in connection with the marriage. The complaint petition was sent to Police Station under Section 156(3) of



the Cr.P.C. on the basis of which the present F.I.R. was registered.

5. The learned counsel for the petitioners submits that the allegation made against all the petitioners are totally absurd, concocted false and frivolous only to harass the petitioners for wrongful gain. The marriage between the complainant's daughter and Brajesh Kumar did not take place and so, no offence against any of the petitioners is made out. There is absolutely no evidence showing finalization of marriage of Brajesh Kumar with the daughter of the informant. The learned Magistrate without applying judicial mind has taken cognizance and so, the impugned order is fit to be quashed.

6. The learned counsel for the Opposite Party No. 2 as well as the learned APP for the State opposed the submissions.

7. On perusal of complaint petition as well as annexures, I find that the negotiation of the marriage of Brajesh Kumar with the daughter of the informant was finalized and the date was fixed on 08.06.2011 and on the date of marriage in the afternoon at 2 P.M., the parents of Brajesh Kumar informed the informant about cancellation of the marriage on account of non payment of Rs. 5,00,000/- and an Alto car. The documents annexed with the F.I.R. shows that Brajesh Kumar had given a blank cheque to the informant to meet the expenditure, which she had incurred in preparation of marriage ceremony. The informant has produced a large number of receipts to



show that she had booked the Hotel, Crockery etc. after payment of handsome amount. In course of enquiry, the witnesses have supported the allegation made in the complaint petition. The learned Magistrate finding prima facie case has taken cognizance against the petitioners. Out of these petitioners, Anita Ram is married sister of Brajesh Kumar and at the time of marriage, she was residing at Kharagpur along with her husband. It is said that she was married in the year 2002. The allegation of demand of money and an Alto car appears omnibus against this petitioner. As such, the criminal prosecution of the petitioner, namely, Anita Ram @ Anita Raj of Criminal Miscellaneous No. 10575 of 2012, in Muffassil Gaya Sadar P.S. Case No. 142 of 2011 is quashed and the Criminal Miscellaneous No. 10575 of 2012 is allowed.

8. So far other petitioners (of Criminal Miscellaneous Nos. 19436 of 2013 and 12853 of 2015) are concerned, they are brother and parents of Brajesh Kumar. All these three petitioners are residing together in one house and the allegation is that they all were present at the time of negotiation and the marriage was finalized by them. The allegation is specific against all three petitioners. They demanded Rs. 5,00,000/- and an Alto car on the date of marriage itself in presence of the witnesses. The informant and his witnesses have supported the allegation during enquiry and the learned Magistrate on the basis of



materials on record has rightly taken cognizance against these three petitioners. It further appears that Brajesh Kumar, son of the petitioner namely, Kameshwar Prasad is still absconding although he is reported to be in Bank service. The Criminal Miscellaneous Nos. 19436 of 2013 and 12853 of 2015 filed on behalf of these three petitioners are accordingly dismissed.

9. All the three criminal miscellaneous applications are accordingly disposed of.

(Sanjay Kumar, J)

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AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	15.09.2017
Transmission Date	15.09.2017

