

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.30341 of 2013

Arising Out of PS.Case No. -83 Year- 2009 Thana -AWTARNAGAR District- SARAN

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1. Dharmendra Kumar @ Bhulawan Rai @ Dharmendra Yadav, S/O Sri Rajeshwar Rai,
 2. Rishideo Rai, S/O late Lakshan Rai,
 3. Rajeshwar Rai, S/O late Agin Rai,
 4. Manoj Rai, S/O Rishideo Rai,
 5. Hazari Rai, S/O Rishideo Rai,
 6. Radhika Devi, W/O Rajeshwar Rai,
 7. Sima Kumari, D/O Rajeshwar Rai, resident of village- Kothia (Pran Rai Ka Tola), P.S. Awatarnagar, District- Saran at Chapra

.... Petitioner/s

Versus

1. The State of Bihar
2. Babi Devi, D/O Harinandan Rai, R/O Village- Rampur Jaiti, P.S.- Dariyapur, Distt- Saran at Chapra

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. D. N. Singh, Advocate
For the Opposite Party/s : Mr. APP

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CORAM: HONOURABLE MR. JUSTICE SANJAY PRIYA

ORAL JUDGMENT

Date: 25-01-2017

This application under Section 482 of the Code of Criminal Procedure has been filed for quashing the order dated 21.03.2012/23.04.2012 passed by the Sub-Divisional Judicial Magistrate, Saran at Chapra, in Trial No. 2481 of 2012 arising out of Awatarnagar P.S. Case No.83 of 2009, by which the Magistrate after submission of the charge-sheet has taken cognizance against the petitioners-accused persons for the offence under Section(s) 498-A, 323, 379/34 Indian Penal Code and Section 3 of the Dowry Prohibition Act.



It has been submitted by the counsel for the petitioners that marriage of the petitioner No.1 was performed with the Informant. It has further been submitted that the Informant, Baby Devi, has performed second marriage with another person.

Learned APP submits that the family members of the Informant have supported the case in the Case Diary in para 3 and 4. Other witnesses in para 9, 10, 23 and 27 have stated that marriage of the petitioner No.1 was performed with the Informant by the accused persons by force and the girl never came to the village of the boy.

The police after investigation submitted charge-sheet against the accused persons under Section(s) 498-A, 323, 379/34 Indian Penal Code and Section 3 of the Dowry Prohibition Act and the learned Court below has taken cognizance against the accused persons under the aforesaid Sections.

From perusal of the allegation in the Complaint Petition, which was sent to the P.S. under Section 156(3) Cr. P.C., statement of the witnesses recorded in the Case Diary, this Court finds no illegality in the order of the learned Magistrate taking cognizance against the petitioner Nos.1, 3 and 6 for the offences under Section(s) 498-A, 323, 379/34 Indian Penal Code and Section 3 of the Dowry Prohibition Act.



So far as allegation against the petitioner Nos. 2, 4, 5, and 7 are concerned, they are the family members of the petitioner No.1 and this Court does not find sufficient material against them in the Case Diary as well as in the Complaint Petition for their criminal prosecution.

Therefore, the order dated 21.03.2012/23.04.2012 passed by the Sub-Divisional Judicial Magistrate, Saran at Chapra, in Awatarnagar P.S. Case No.83 of 2009, taking cognizance for the offence under Section(s) 498-A, 323, 379/34 Indian Penal Code and Section 3 of the Dowry Prohibition Act, as well as entire criminal proceedings with respect to petitioner Nos. 2, 4, 5 and 7 are hereby quashed.

The learned Court below will proceed in the case against the petitioner Nos. 1, 3 and 6 in accordance with law.

The application is allowed in part.

(Sanjay Priya, J)

J.Alam/-

AFR/NAFR	NAFR
CAV DATE	N/A
Uploading Date	30-01-2017
Transmission Date	30-01-2017

