

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.5081 of 2013

Arising Out of PS.Case No. -679 Year- 2011 Thana -AURANGABAD COMPLAINT CASE
District- -

- =====
1. Madan Mohan Singh @ Mohan Singh S/O Late Yogendra Singh R/O Village - Baruna, P.S. Nabinagar, District - Aurangabad
 2. Brij Mohan Prasad Singh S/O Late Yogendra Singh R/O Village - Baruna, P.S. Nabinagar, District - Aurangabad
 3. Ravindra Singh S/O Late Deo Sundar Narayan Singh R/O Village - Baruna, P.S. Nabinagar, District - Aurangabad
 4. Girendra Singh @ Girendra Pd. Singh S/O Late Deo Sundar Narayan Singh R/O Village - Baruna, P.S. Nabinagar, District - Aurangabad
 5. Ganga Singh S/O Late Raju Singh R/O Village - Baruna, P.S. Nabinagar, District - Aurangabad
 6. Yamuna Singh S/O Late Raju Singh R/O Village - Baruna, P.S. Nabinagar, District - Aurangabad
 7. Bishwanath Singh S/O Narandra Singh R/O Village - Baruna, P.S. Nabinagar, District - Aurangabad

.... Petitioner/s

Versus

1. The State Of Bihar
2. Subhadra Singh W/o Ramgati Pd. Singh resident of villageBarun,P.S. Nabinagar, Aurangabad.

.... Opposite Party/s

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Appearance:
For the Petitioner/s : Mr. Sanjay Kumar
CORAM: HONOURABLE MR. JUSTICE KISHORE KUMAR MANDAL
ORAL JUDGMENT
Date: 20-04-2017

Heard Mr. Sanjay Kumar in support of the application filed under section 482 of the Code of Criminal Procedure praying for quashing the order dated 01.08.2012 passed by the learned Chief Judicial Magistrate, Aurangabad, in Complaint Case No. C-679 of 2011/Tr. 2293 of 2012. By the said order, the cognizance of the offence was taken under sections 323, 498-A and 494 IPC against the accuseds cited in the complaint including the petitioners herein.

2. In spite of notice no one has appeared on behalf of the opposite party/complainant.



3. The complainant was married to co-accused Ramgati Pd. Singh around 40 years ago. In brief, the allegation is that several years after the marriage, the in-laws started pressurizing her to bring cash of Rs. two lakh. When she expressed inability of her father to do so, she was tortured by the in-laws inasmuch as she was also assaulted. However, in the concluding part of the complaint it has been alleged that the petitioners herein, some of whom are own uncles of the complainant and others co-villagers of the father of the complainant, instigated her husband to get the land, which the complainant had at her Naihar, sold with further allegation that the accused persons were ready to purchase the same.

4. Learned counsel for the petitioners submits that on going through the complaint (Annexure-1) it shall appear that the petitioners are not the relatives of the husband of the complainant. There is no allegation against the petitioner in the complaint which would constitute the offence under sections 498-A, 494 or 323 IPC.

5. Indisputably, the allegation constituting offence under section 494 IPC is against the husband who is one of the accuseds in the complaint and not the petitioners herein. In his submissions, the present criminal proceeding launched against the petitioners herein are malicious and for ulterior motive. If the prosecution of the petitioner on these facts disclosed in the complaint is allowed, the same shall be a misuse of the process of law. The facts noted above are evident from the complaint. Law on this aspect has been clarified by the Hon'ble the Supreme Court on several occasions. Reference, however, may be made to the case of State of Haryana vs. Bhajan Lal (1992 Suppl Vol-1 385) where the circumstances have been indicated which would justify the Court to invoke its inherent jurisdiction. Even otherwise, it is explicit that the petitioners are not the in-laws of the complainant or any close relative of her husband.



Section 498-A states as under:-

“Husband or relative of husband of a woman subjecting her to cruelty.- Whoever, being the husband or the relative of the husband of a woman subjects such woman to cruelty, shall be punished with imprisonment for a term which may extend to three years and shall also be liable to fine.”

6. Seen thus, the petitioners not being the relatives of the husband or the in-laws of the complainant cannot be proceeded under section 498-A IPC. The allegations in the complaint constituting offence u/s 494 & 323 IPC are not against the petitioners.

7. This Court is, thus, satisfied that the present case would qualify for invocation of its inherent power conferred under section 482 Cr. P.C. to ensure that the order of the court does not occasion a failure of justice.

8. The application is allowed. The order dated 01.08.2012, passed by the learned Chief Judicial Magistrate, Aurangabad, insofar as the present petitioners are concerned, is quashed and set aside.

(Kishore Kumar Mandal, J)

HR/-

AFR/NAFR	NAFR
CAV DATE	
Uploading Date	24.04.17
Transmission Date	24.04.17

