

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.48001 of 2013

- =====
1. Sumit Dubey, S/o Vidya Nand Dubey
 2. Vidyanand Dubey, S/o Late Umakant Dubey
 3. Bimla Devi, W/o Vidyanand Dubey
 4. Laval Kumari @ Smista, D/o Vidyanand Dubey
 5. Ashit Dubey @ Nanhaka S/o Vidyanand Dubey
- All are Resident of Ram Jaipal Nagar, Gola Datchami Baily Road,
Barun Colony, P.S.- Danapur, District- Patna

.... Petitioners

Versus

1. The State of Bihar
2. Sobha Devi, W/o Sumit Dubey, R/o Ramjaipal Nagar Gola Patchami
Bailey Road, Barua Colony, Danapur, District- Patna At Present D/o
Phuldeo Ojha, R/O Sirkohiya, P.S.- Saraiya O.P. Jaitpur, District-
Muzaffarpur

.... Opposite Partys

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Appearance :

For the Petitioner : Mr. Dilip Kumar Tondon, Advocate
For the Opposite Party : Mr. Nagendra Prasad (APP)

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CORAM: HONOURABLE MR. JUSTICE JITENDRA MOHAN SHARMA
ORAL ORDER

6 08-05-2017 This Criminal Miscellaneous has been filed for quashing the order dated 02.12.2011 passed by the learned S.D.J.M. (West) Muzaffarpur in Complaint Case No. 325 of 2011 (Arising out of Tr. No. 2096 of 2012), whereby and whereunder cognizance has been taken under Section 498A/34 of the Indian Penal Code against all the petitioners.

Heard the learned counsel for the petitioners and the learned A.P.P. for the State. Nobody has turned up on behalf of the opposite party no.2. Complaint Case No. 325 of 2011 was filed by Sobha Devi wife of petitioner no.1 with allegation that on



14.05.2009 her marriage was solemnized with the petitioner no.1 and after marriage she went to her in-laws house but after sometime the accused persons started demanding a motorcycle and Rs. 4,00,000/- by way of dowry. It is further alleged that the accused persons showed an Album to reflect that petitioner no.1 has already married with another woman. Further the petitioners told that if the demand will be fulfilled the petitioner no.1 will leave his second wife and thereupon Rs. 50,000/- was paid to the petitioners by her father but the behaviour of the petitioners did not change and on 14.03.2011 the accused persons after assaulting her, dropped her in the Maike thereafter on 17.03.2011 the brother along with villagers went to her in-laws house for settlement of dispute but in vain and then the complaint case was filed. The complainant was examined on Solemn affirmation and four inquiry witnesses were also examined and after finding prima facie materials against all the accused persons cognizance has been taken under Section 498A/34 of the Indian Penal Code.

The learned counsel for the petitioners submits that the complainant has filed Maintenance Case also in which the petitioner no.1 is paying ad-interim maintenance to the complainant. The learned S.D.J.M. has not considered the materials available on the record properly. The complainant



herself does not want to lead a conjugal life with the petitioner, resulting, the petitioner no.1 filed Divorce Case No. 556 of 2010, resulting, the complainant has filed this case. There is no specific allegation against the petitioners but this aspect of the case was not considered and without considering the same impugned order has been passed.

Learned A.P.P. on the other hand, submits that there is sufficient materials to proceed to summon against the accused persons in this case and the learned S.D.J.M. has rightly passed the impugned order. There is no illegality, incorrectness or impropriety in the said order and, as such, the same does not require any interference by this Court.

Having considered the submissions urged at the Bar, going through the complaint petition and impugned order it is manifest that the learned Magistrate after finding prima facie case to be made out has passed the order for summoning the accused persons. The complainant in her statement on solemn affirmation and four inquiry witnesses have supported the case as made out in the complaint petition. At this stage, the defence of the accused persons cannot be looked into, all these matters can well be considered at the time of hearing on the point of charge.

In the result, the impugned order is hereby confirmed



and finding no merit in this Criminal Miscellaneous the same is hereby dismissed.

However it is made clear that the petitioners may be at liberty to raise all these points at the time of hearing on the point of charge which will be available to him in accordance with law.

(Jitendra Mohan Sharma, J.)

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