

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.6153 of 2014

Arising Out of PS.Case No. -97 Year- 2012 Thana -SITAMARHI COMPLAINT CASE District-
SITAMARHI

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1. Fasi Manzar @ Mian Babu , Son of Late Sultan Ahmad
2. Shahena Mozib, Wife of Fasi Manzar @ Mian Babu,
Both Resident of Mhalla-Shivdhara, Bazar Samiti Chauk, P.S.-L.U.M.U.,
District-Darghanga.

.... Petitioner/s

Versus

1. The State of Bihar
2. Afsana Parveen, Wife of Mazhar Muzib, At present Md. Israil Ansari, Resident
of village-Bhorha, P.S.-Belsand, District-Sitamarhi.

.... Opposite Party/s

with

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Criminal Miscellaneous No. 37646 of 2014

Arising Out of PS.Case No. -97 Year- 2012 Thana -SITAMARHI COMPLAINT CASE District-
SITAMARHI

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Mazhar Mojib, S/o Choudhary Mojibur, resident of village- Mahisham, P.S.-
Madhepur, District- Madhubani

.... Petitioner/s

Versus

1. The State of Bihar
2. Afsana Parveen, W/o Mazhar Mojib, at Present Md. Israil Ansari, resident of
village- Bhorha, P.S.- Belsand, District- Sitamarhi

.... Opposite Party/s

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Appearance :

(In Cr.Misc. No.6153 of 2014)

For the Petitioner/s :

For the Opposite Party/s :

(In Cr.Misc. No.37646 of 2014)

For the Petitioner/s :

For the Opposite Party/s : Mr.

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CORAM: HONOURABLE MR. JUSTICE ARUN KUMAR

ORAL JUDGMENT

Date: 19-07-2017

As both the petitions are directed against the same
impugned order of cognizance dated 08.10.2014, so being disposed of
by this common judgment.

2. Heard learned counsel for the parties.

3. In both quashing petitions, filed under Sections 482



Cr.P.C., the petitioners have challenged order dated 30.03.2012 passed by Mr. Alok Kumar Pandey, S.D.J.M., Sadar Sitamarhi in Complaint Case No. 97 of 2012 (Trial No. 997 of 2013) whereby he has taken cognizance of offence under Sections 498A of the Indian Penal Code.

4. Complaint Case in brief is that after her marriage solemnized with accused Mazhar Mojib on 01.12.2010, accused persons started torturing complainant for realizing further demand of Rs. 2 lacs as dowry. The father of the complainant later on assured to meet the demand, but the demand was not fulfilled. It is alleged that Fasi Manjar, brother-in-law of the complainant and her husband took her to Darbhanga where many strangers armed with weapons used to come to meet Fasi Manjar and her husband and used to drink liquor and used to misbehave with her. Fasi Manjar and her husband used to assault her and threatened and not allowed her to go out from there unless demand of dowry is fulfilled and one day getting opportunity, she escaped and came back to her parents' home at Sitamarhi.

5. Learned counsel appearing on behalf of the petitioners submits that petitioner no. 2 is married Nanad of the complainant and petitioner no. 1 is her husband and she got married prior to the marriage of the complainant and both were living at Darbhanga whereas complainant's matrimonial house is situated in the District of Madhubani and these two petitioners have had no concern with the



matrimonial affairs of the complainant. He submits that allegation is malicious in nature and only with view to falsely implicate allegation against them has been incorporated in the complaint by the complainant. It is also submitted that case of complainant appears improbable that she escaped away from the place where she was kept confined at Dharbhanga and came back by train to Sitamarhi but on the way there are several police stations but she did not lodge any case with the police. Further submission is that petitioner no. 2 Shahena Mozib is a teacher in Government school since 2007 and there is no specific allegation against her. Learned counsel submits that so far as allegation against husband of the complainant is concerned (petitioner in Cr. Misc. No. 37646 of 2014), it is general in nature and still today he is ready to keep his wife/complainant but she is not ready to go back and even earlier matter was referred to mediation but failed.

6. Learned counsel appearing on behalf of the O.P. No. 2/complainant submits that allegation is specific against the husband and these petitioners who used to torture her for realizing further dowry.

7. Having considered rival submissions and on perusal of record, it appears that allegation against husband and Fasi Manzar @ Mian Babu is specific regarding torture to complainant in connection with further demand of dowry though the petitioner Fasi Manzar is brother-in-law of the complainant but the specific allegation is that he



brought her along with complainant’s husband to his house at Darbhanga and there tortured her whereas allegation against Shahena Mozib (petitioner no. 2), wife of petitioner no. 1 is concerned, there is no any specific allegation against her only a vague reference is made in the complaint against Shahena Mozib, who is married Nanad, a teacher in a Government school. So cognizance order dated 30.03.2012 passed in complaint Case No. 97 of 2012 (Tr. No. 997 of 2013) and subsequent criminal proceeding only against her is set aside.

8. As far as rest other two petitioners namely Fasi Manzar @ Mian Babu and Mazhar Mojib (petitioner in Cr. Misc. No. 37646 of 2014) are concerned, as earlier stated, allegation being specific against them, trial will further proceed against them. Thus, Cr. Misc. No. 37646 of 2014 stands dismissed. Cr. Misc. No. 6153 of 2014 is also dismissed so far it relates to petitioner no. 1 Fasi Manzar @ Mian Babu but it stands allowed so far petitioner no. 2 is concerned.

(Arun Kumar, J)

Sujit/-

AFR/NAFR	NAFR
CAV DATE	NA
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