

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.40252 of 2014

Arising Out of PS.Case No. -197 Year- 2013 Thana -SAMASTIPUR COMPLAINT CASE District-
SAMASTIPUR

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Mohamad Hasnain Son of Md. Jamil Akhtar Resident of Village-
Mohammadpur Koari, P.S.-Waini, District-Samastipur.

.... Petitioner/s

Versus

The State of Bihar

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Sujit Kumar Singh

For the Opposite Party/s : Mr. Kr. Virendra Narayan(App)

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CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR
UPADHYAY
ORAL ORDER

6 06-09-2017 Heard learned counsel for the petitioner and the State.

No one appears on behalf of the opposite party no.2

despite valid service of notice.

Counsel for the petitioner submits that petitioner is

‘Debar’ of the opposite party no.2. He is not residing in India but

staying abroad in connection with his job and he has placed

reliance on Annexure-3 series to demonstrate that on the date of

alleged occurrence of ousting the opposite party no.2 from the

matrimonial house, he was not in India as is evident from the entry

made in the passport. He further submits that from the complaint

petition, it appears that absolutely no role is attributed to this

petitioner and the allegation, as alleged, is against the other family



members and not to this petitioner. He also submits that even assuming the allegation levelled in the complaint petition on its face value to be correct, no case is made out against this petitioner in matters relating to the offence under section 498A. There is a tendency to rope in even innocent family members by levelling general and omnibus allegation. The court has deprecated such tendency of false implication in various cases and criminal proceeding was quashed on consideration of fact that unnecessarily the distant relatives and those residing away from the matrimonial home are implicated.

Counsel for the petitioner has placed reliance on a decision of this court reported *in 2014(3) PLJR 263* to substantiate that matters where general and omnibus allegations are levelled against the relatives of the husband, the court should quash the proceeding in exercise of jurisdiction under section 482 Cr.P.C..

Considering the totality of the facts situation and the judgment referred by the counsel for the petitioner, the court is of the view that in the present case the proceeding against the petitioner is an abuse of process of law and as such deserves protection as no innocent should be compelled to face ordeal of trial. The very objective of Section 482 Cr.P.C. is to prevent abuse



of process of law and for the ends of justice and in the peculiar facts and circumstances of this case, the court is of the considered view that the petitioner against whom there is no specific allegation of any demand of dowry or any overt act of cruelty, in that situation, compelling the petitioner to face ordeal of trial is impermissible and accordingly, the application is allowed and the order taking cognizance dated 4.9.2013 passed by the learned Sub Divisional Judicial Magistrate, Dalsinghsarai, Samastipur so far it relates to this petitioner is in C.R. Case No. 197 of 2013, T.R. No. 1321 of 2014 is quashed.

(Anil Kumar Upadhyay, J)

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