

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.49936 of 2014

Arising Out of PS.Case No. -2609 Year- 2013 Thana -KATIHAR COMPLAINT CASE District-KATIHAR

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1. Deepak Kumar Jha @ Raju Jha, Son of Baidyanath Jha @ Bhola Jha
2. Baidyanath Jha @ Bhola Jha, Son of Late Ram Bahadur Jha
3. Janki Devi, Wife of Baidyanath Jha
All R/o Mohalla Imergency Colony, B. Church, Rly Qt. NO 505 'E', P.S. Katihar
Sahayak, District Katihar

.... Petitioner/s

Versus

1. The State of Bihar
2. Priyanka Jha, D/o Kumar Amrendra Bahadur Jha, Wife of Deepak Jha @ Raju Jha, R/o Mohalla Danaria Old Jute Mills, P.O. Danaria Mills, P.S. Katihar Town, District Katihar.

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Bhola Prasad, Adv.
Mr. Mukesh Kumar Jha, Adv.
For the Opposite Party no.1 : Mr. Satyendra Narayan Singh, APP
For the Opposite Party no.2 : Mr. Bimal Kumar, Adv.

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CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD

ORAL JUDGMENT

Date: 08-11-2017

Heard learned counsel for the parties.

2. The present quashing application has been filed for setting aside the order dated 03.05.2014 passed by the learned S.D.J.M., Katihar in Complaint Case No.2609 of 2013 by which the learned S.D.J.M. has taken cognizance for the offence under Section 498A/24 of the Indian Penal Code and issued summons to the petitioners.

3. Learned counsel for the petitioners points out that



the petitioner no.1 is the husband, whereas petitioner nos.2 and 3 are the father-in-law and mother-in-law respectively of the complainant-opposite party no.2. Learned counsel submits that as per the allegations in the complaint petition the marriage between the complainant and the petitioner no.1 was solemnized on 20th January, 2005 according to Hindu Rites and Customs. The complainant gave birth to two children and both are daughters aged about 8 years and 5 years, but the allegation is that after birth of the daughter Shweta, the accused persons started torturing and humiliating as also assault and abuse to the complainant was routine work of accused. It is further stated that the accused no.1 (petitioner no.1) is a Railway employee who earns a lot of money and spends it in wine and other activities. Against the husband, it is alleged that when he comes home in intoxicated conditions, indulges in abuse and assault to the complainant. The complainant also alleges that her husband asks the complainant to bring a cash of Rs.100000/- from the father.

In the complaint petition, the allegation against the father-in-law is that he is also a Railway employee and he too support his son in humiliating the complainant. It is further alleged that on 30th June, 2011, the accused persons in conspiracy with each other planned to kill the complainant and they tried to kill the complainant by pushing her from the ladder, this was informed by the complainant to



her father who came to the house of the complainant, but the accused persons seeing her father fled away from the house. It is stated that a panchayati was also held and in presence of panches the accused persons abused the complainant and her father. At last, it is submitted that on 05.07.2011 the accused persons drove the complainant out of home along with children. Thereafter the complainant is said to be residing at her parents' house along with children.

4. Learned counsel for the petitioners initially attempted to challenge the order taking cognizance and issuance of summons as regards all the three petitioners, his submission is that the story as narrated in the complaint petition is only false, concocted and baseless, however, in view of the opposition made on behalf of the complainant-opposite party no.2 pointing out the specific allegation against the husband (petitioner no.1) made in the complaint petition, learned counsel for the petitioners submits that in the entire complaint petition there is no allegation at all against the mother-in-law save and except that vaguely and generally the word "accused persons" have been referred from which nothing can be inferred against the mother-in-law. Further it is submitted that no single act or omission of either demand, abuse or assault has been made against the father-in-law or the mother-in-law. Learned counsel submits that admittedly the marriage is of the year 2005 and the husband of the complainant is a



Railway employee who has an independent life separate from his father and mother and, therefore, whatever be the allegations against the husband at least father-in-law and mother-in-law have been falsely arrayed as party accused in the complaint petition. The allegations that the father too support the son in humiliating the complainant and the further allegation that accused persons in conspiracy to each other planned to kill the complainant are vague and have been made only casually just to harass the entire family members including old age father and mother of the husband. Learned counsel for the petitioners places reliance upon a judgment of the Hon'ble Supreme Court in the case of **Pritam Ashok Sadaphule & Ors. Vs. State of Maharashtra & Anr. reported in (2015)11 SCC 769**. Submission is that in the said case also vague and general allegations were made by the complainant against her father-in-law, mother-in-law, brother-in-law and sister-in-law i.e. the entire family of torturing and humiliating the complainant, but on consideration of the allegations the Hon'ble Supreme Court in paragraph 17 held as under:-

“We have carefully perused the allegations pointed out by the learned counsel, from the complaint of Respondent 2 Hima Pritam Sadaphule, dated 4-2-2010. There can be no doubt whatsoever, that the allegations leveled against Appellants 2 to 5 do not justify any inference, which would lead to the conclusion, that they could be held responsible, for an



offence in the nature of Section 498-A of the Penal Code. In the above view of the matter, we are satisfied in accepting the prayer made in the instant appeal, with reference to Appellants 2 to 5, and to order quashing of the first informant report dated 6-3-2010, and the proceedings that may have arisen therefrom, including the charge-sheet dated 27-7-2010.”

5. On the other hand, learned counsel representing the complainant-opposite party no. 2 submits that in the case of **Taramani Parakh Vs. State of M.P. & Ors. reported in (2015) 11 SCC 260**, the Hon'ble Supreme Court has held that it is not that all the cases against the relatives of the husband are to be quashed.

6. I have considered the rival submissions at the bar. A perusal of the complaint petition clearly shows that so far as the allegations against the petitioner no.1 is concerned, the same are specific and in fact whole thrust of the allegations are against the petitioner no.1. The allegations made against the petitioner nos.2 and 3 are only vague and general without giving a single instance of any act or omission which may show active participation of the petitioner nos.2 and 3 in commission of any act of torture so as to constitute an offence within the meaning of Section 498A of the Indian Penal Code. There is no whisper of allegations against mother-in-law whereas allegations against father-in-law are also vague and no inference may



be drawn against them. Marriage is of the year 2005, husband of the complainant is employed in railway and the allegations of demand as also torture are against him. This Court agrees with the submission of learned counsel for the petitioners that the petitioner nos.2 and 3 have been falsely implicated in the present case.

7. I am, therefore, of the considered opinion that the order taking cognizance and issuance of summons as against the petitioner nos.2 and 3 cannot sustain and the same is hereby set aside against them. So far as petitioner no.1 is concerned, since thrust of the allegations are against him, this Court is not persuaded to quash the order taking cognizance and issuance of summon against the petitioner no.1.

8. The application is, thus, partly allowed.

(Rajeev Ranjan Prasad, J)

Arvind/-

AFR/NAFR	NAFR
CAV DATE	N/A
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