

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.22198 of 2014

Arising Out of PS.Case No. -1738 Year- 2013 Thana -KATIHAR COMPLAINT CASE District-KATIHAR

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1. Pramila Devi Wife fo Laldhari Thakur
2. Poonam Devi Wife of Santosh Kumar Thakur
3. Santosh Kumar Thakur Son of Laldhari Thakur
4. Laldhari Thakur Son of Late Nanku Thakur All residents of Village- Kantakosh, Police Station - Manihari, District- Katihar.

.... Petitioners

Versus

1. The State of Bihar.
2. Kiran Devi, Wife of Santosh Kumar Thakur, Daughter of Late Hari Prasad Bhagat, residents of Village- Kantakosh, Police Station - Manihari, District- Katihar.

.... Opposite Party/s

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Appearance :

For the Petitioners : Mr. Ajay Kumar, Advocate
For the Opposite Party : Mr. Bimal Kumar, Advocate
: Mr. Maruti Kumari, Advocate

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CORAM: HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH

ORAL JUDGMENT

Date: 12-07-2017

1. Heard the learned counsel for the petitioners and the learned counsel for opposite party no.2 namely Maruti Kumari.

2. The petitioners have filed the present quashing application against the order dated 10.03.2014 passed in complaint case no. 1738 of 2013 whereby the learned Sub-Divisional Judicial Magistrate, Katihar has taken cognizance against all the accused persons for the offences punishable under Section 498A/34 of Indian Penal Code as well as under Section 494 of Indian Penal Code against the husband of complainant namely Santosh Kr. Thakur i.e. petitioner



no. 3, upon a complaint lodged by opposite party no.2.

3. The short facts of the case are that the opposite party no.2 namely Kiran Devi has filed a complaint case no. 1738 of 2013 on 15.07.2013. In the complaint petition, the mother-in-law, father-in-law, second wife of Santosh Yadav and the husband of opposite party no.2 have been arrayed as accused persons.

4. In the complaint petition, opposite party no.2 has stated that she was married with petitioner no. 3 on 06.06.1999 according to Hindu rites and rituals. It has been further stated that the said marriage was a love marriage and after marriage, she had gone to her matrimonial house and started living peacefully with her husband. After two years of marriage, trouble started and subsequently, accused Santosh Kr. Thakur married with one Poonam Devi. Thereafter, all the family members started torturing opposite party no.2 for bringing Rs. 50,000/- from her parents. It is alleged in the complaint petition that she has one son which was taken away by accused Santosh Yadav to Noida near Delhi and since then, the son is missing. Finally, it has been alleged that in the month of June 2013, all the accused persons started beating her and kicked her out from her matrimonial house and told her to bring a sum of Rs. 50,000/- otherwise, she would not be allowed to stay there.



5. The said Kiran Devi; opposite party no.2 has been examined on solemn affirmation on 06.08.2013 by the learned trial court and in support of the complaint, two witnesses namely Anjuri Devi and Yasoda Devi had been examined who had reiterated the facts stated in the complaint petition.

6. After an enquiry having been made by the learned trial court, the trial court by an order dated 10.03.2014 has found sufficient materials on record to proceed this case under Section 498/34 of Indian Penal Code against all the petitioners as well as under Section 494 of Indian Penal Code against accused Santosh Kr. Thakur, hence summons have been directed to be issued against them.

7. The learned counsel for the petitioners has submitted that the complaint petition has been filed much beyond the period of limitation prescribed in the Act and an agreement has been entered into between husband and wife annulling the marriage. It is further submitted that opposite party no.2 was appointed as *Anganbadi Sahaika* and in the application for the said post, she has mentioned her status as *parityagita* i.e. deserted/ separated.

8. The learned counsel for opposite party no.2 is present and she contends that the petitioners have tortured opposite party no.2, they are not maintaining her and they have also taken away her son for which, she has filed the complaint.



9. I have heard learned counsel for the parties and perused the materials available on record. Upon going through the materials available on record especially the complaint petition and the statement of opposite party no.2 on solemn affirmation tendered before the learned trial court, it is clear that a cognizable offence is made out under Section 498A/34 of Indian Penal Code against all the petitioners as well as under Section 494 of Indian Penal Code against petitioner no. 3 only. In view of the law laid down by the Hon'ble Apex Court in the case of *State of Haryana vs. Bhajan Lal* reported in *1992 Supp. (1) SCC 335*, I do not find it a fit case for exercising inherent powers under Section 482 of Code of Criminal Procedure and quashing the complaint case. However the petitioners, if so advised, may move the learned trial court for appropriate relief, as provided for under law at the proper stage.

10. With the aforesaid liberty, the instant petition is dismissed.

(Mohit Kumar Shah, J.)

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AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	15.07.2017
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