

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.31440 of 2014

Arising Out of PS.Case No. -1607 Year- 2012 Thana -VAISALI COMPLAINT CASE District-
VAISHALI(HAJIPUR)

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1. Damodar Rai s/o Late Brahmdeo Rai.
2. Mosmat Sakuntala Devi w/o Late Brahmdeo Rai.
3. Rina Devi w/o Damodar Rai.
All residents of village - Rahar Diyara, P.S. Sonapur, Distt. - Saran at Chhapra
.... Petitioners.

Versus

1. The State of Bihar
2. Meena Devi w/o Upendra Rai presently residing at village and post - Hilalpur,
P.S. Industrial area, Distt. – Vaishali. Opposite Parties.

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Appearance :

For the Petitioners : Mr. Mahendra Thakur, Adv.
Mr. Vijay Kumar, Adv.
For the Opposite Party No.2 : None.
For the State : Mr. T.P. Mandal, A.P.P.

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**CORAM: HONOURABLE MR. JUSTICE PRAKASH CHANDRA
JAISWAL**

ORAL JUDGMENT

Date: 26-07-2017

This petition under Section 482 of the Code of Criminal Procedure has been preferred against the order dated 16.11.2012, passed by the learned S.D.J.M., Hajipur (Vaishali) in Complaint Case No.C1-1607/2012, whereby finding prima facie case under Section 498A of the Indian Penal Code and Section 4 of the Dowry Prohibition Act against the four named accused persons including the petitioners the learned Magistrate has ordered to issue summon against them.

It has been submitted by learned counsel for the petitioners that petitioner no.1-Damodar Rai happens to be the elder brother-in-law (Bhaisur), petitioner no.2-Mosmat Sakuntala Devi, mother-in-law and petitioner no.3-Rina Devi sister-in-law (Gotani) of the complainant. They are living separately and have no concern with the affairs of the complainant and her husband. The allegations levelled against them are not specific rather



general and omnibus in nature. No prima facie case is made out against the petitioners.

In spite of power filed on behalf of opposite party no.2, no one is present on behalf of opposite party no.2.

On perusal of the records, it appears that the complainant Mina Devi filed a complaint petition against the petitioners and other accused persons with the allegation in succinct that the marriage of the complainant was solemnized with accused Upendra Rai. After marriage, she went to her marital house and lived there happily for one month but, thereafter, all the accused persons named in the complaint petition in connivance of her husband started demanding colour television and a motorcycle and subjected her to torture for not coughing up the said demand. They drove her out of the marital house thrashing her and snatching her belongings.

During the course of enquiry, the complainant examined herself on solemn affirmation and one witness in buttress of her case. After perusing the complaint petition and material on record, the learned Magistrate, finding prima facie case under Section 498 A of the Indian Penal Code and Section 4 of the Dowry Prohibition Act, ordered to summon against the four accused persons including the petitioners.

On perusal of the case records, it appears that petitioner no.2-Mosmat Sakuntala Devi happens to be the mother-in-law of the complainant. There is nothing on the record to indicate that she has been falsely and with ulterior motive implicated in the case. Role of the mother-in-law in demanding dowry and subjecting the victim to torture for the said demand cannot be ruled out. The complainant in her solemn affirmation and her witness has supported the allegation of demanding dowry and subjecting



the complainant to torture over the said demand against the petitioner no.2-Mosmat Sakuntala Devi. Hence, in my considered opinion, prima facie case against the petitioner no.2-Mosmat Sakuntala Devi is made out under the aforesaid sections. So far as petitioner no.1-Damodar Rai also happens to be the elder brother-in-law (Bhaisur) and petitioner no.3-Rina Devi sister-in-law (Gotani) of the complainant is concerned, the allegations levelled against them are not specific rather general and omnibus in nature. There is nothing on record to indicate as to what motivated the aforesaid petitioners to make the aforesaid demand of colour television and motorcycle from the complainant as dowry as the same would be used by the husband of the complainant and are of no use of the said petitioners. Hence, no prima facie case is made out against the said petitioners i.e. petitioner no.1 and petitioner no.3, and continuance of the proceeding against them is sheer abuse of the process of the Court.

Accordingly, the impugned order dated 16.11.2012 passed by the learned S.D.J.M., Hajipur, Vaishali in Complaint Case No.C1-1607/2012 against the petitioner no.1-Damodar Rai and petitioner no.3-Rina Devi is quashed. This application is partly allowed.

(Prakash Chandra Jaiswal, J.)

Trivedi/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	28.07.2017
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