

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.41734 of 2014

Arising Out of PS.Case No. -26 Year- 2014 Thana -MITHANPURA District- MUZAFFARPUR

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1. Shiv Ratan Thakur son of Late Satya Narayan Thakur
2. Durga Devi wife of Late Satyanarain Thakur
3. Sobha Devi wife of Shiv Ratan Thakur All resident of Village/Mohalla-
Malighat Chunabhatti Road; Police Station- Mithanpura; District
Muzaffarpur.

.... Petitioner/s

Versus

The State of Bihar

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Pawan Kumar Singh, Advocate
: Mr. Pradhan Muni Manohar Pd. Advocate
: Mr. Raju Kumar, Advocate
For the Opposite Party/s : Mr. Ram Naresh Ram (APP)

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CORAM: HONOURABLE MR. JUSTICE S. KUMAR
ORAL ORDER

3 09-10-2017 This petition under Section 482 of Cr.P.C. has been

filed for quashing the order 15.07.2014 passed by learned
S.D.J.M., (East) Muzaffarpur in connection with Mithanpura P.S.
Case No. 26/14, G.R. No. 399/14 corresponding to Trial No.
2260/14 whereby the learned S.D.J.M. had taken cognizance for
the offence under Section 498(A)/34, 494 of the Indian Penal
Code against the petitioners.

2. Briefly stated, the facts of the case is that informant
is sonu Devi wife of Shiv Ratan Thakur gave a written report to
the police on 26.01.2014, inter alia, alleging that her marriage was
solemnized with petitioner No. 1 in the year 2005. After three
years of marriage petitioners started demanding Rs. 1,00000/-



(Rupees one lacs), due to non-fulfillment of said demand informant was subjected to torture and harassment. The father of the informant gave Rs. 1,00,000/- (Rupees one lack) to the petitioner and accordingly a Saloon was opened at Purani Bazar, Muzaffarpur which was run by her husband petitioner No. 1. Petitioner Nos. 1 and 2 again demanded Rs. 50, 000/- (Rupees fifty thousand) for motorcycle but the same could not be fulfilled and an attempt was made to kill her on 25.08.2012 in which she sustained grievous injury. Thereafter informant instituted the FIR which was registered by the police and after investigation police has submitted charge sheet against all the three accused persons under Section 498(A) of the Indian Penal Code.

3. It has been stated on behalf of the petitioner that they are innocent and having falsely implicated in this case and all allegations are false and fabricated and petitioner No. 1 has also filed a Divorce Case. It has further been submitted that the incident is of 27.07.2012 whereas FIR has been lodged on 26.01.2014.

4. After perusal of the case diary, learned court below has referred to several paragraphs of case diary in which witnesses have supported the case of the prosecution. It has been further admitted that during subsistence of first marriage, petitioner no. 1



has solemnized second marriage, as such the court below has taken cognizance of the offence under Section 494 of the Indian Penal Code also.

5. After due consideration of materials available on the record and statement of witnesses in case diary, the court below has taken cognizance of the offence against the petitioners under Section 498(A)/34, 494 of the Indian Penal Code and issued summons for their appearance. At the stage of taking cognizance, the court below has to form a prima facie opinion whether any offence is made out against the accused or not. The High Court in its inherent jurisdiction cannot look into sufficiency or adequacy of evidence which is the function of trial court and High Court in its inherent jurisdiction cannot substitute the finding of Trial Court for summoning order passed by Trial Court. As such, this Court is not inclined to interfere with the order dated 15.07.2014 passed by the court below as petition is dismissed.

6. However, liberty is granted to the petitioners to raise all the points raised in this petition as well as all other grounds available to them in law at the time of framing of charge.

(S. Kumar, J)

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