

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.43394 of 2013

Arising Out of PS.Case No. -1374 Year- 2012 Thana -BHABHU(KAIMUR) COMPLAIN C
District- BHABHUA (KAIMUR)

- =====
1. Tengar
 2. Bablu @ Babbu, both sons of Late Abash
 3. Nagina Babi, wife of Late Abash.
 4. Babu, son of Late Gafur
- All are resident of village- Baraut, P.S. Handiya Chowki- Baroth,
District- Allahabad (U.P.)

.... Petitioners

Versus

1. The State of Bihar
2. Mamun Nisha @ Julekha, W/o Noor Mohamad , sister of Nasim
Akhtar @ Bablu at Mohalla – Lal Darwaja Sarai Ward No.1, Chauk
Chunar, P.S. Chunar, District- Mirzapur, District U.P.

.... Opposite Parties

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Appearance :

For the Petitioners : Mr. Ajay Nandan Sahay, Advocate
For the Opposite Parties : Mr. Khurshid Anwar (APP)

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CORAM: HONOURABLE MR. JUSTICE JITENDRA MOHAN SHARMA
ORAL ORDER

4 27-04-2017 This criminal miscellaneous has been filed for quashing the order dated 15.04.2013 passed by Md. Anayat Karim, the then J.M. 1st Class Bhabua (Kaimur), in Complaint Case No. 1374 of 2012, whereby and whereunder the learned Magistrate has found prima facie case to be made out under Section 498-A of the Indian Penal Code against the petitioners and the husband named in the complaint petition and directed to issue summons to them for their appearance.

Heard the learned counsel for the petitioners, the learned A.P.P. for the State and learned counsel for the complainant (opposite party no.2).



As per complaint petition, the complainant lost her parents and was nursed and cared by her *Phupha* and *Phuphi* and they married her with Noor Mohammad @ Mangaru. The complainant went to *sasural* where she remained peacefully for two years but thereafter cash of Rs. 50,000/- was demanded for business of boxes, when the demand was not fulfilled she was tortured and assaulted by the husband and the petitioners. The complainant delivered two child also in the meantime husband and mother-in-law got her shifted to her *Phupha's* house and threatened not to take away unless demand has not been fulfilled, she could not be permitted to live in the in-laws house. The husband has got entangled with another lady also . The complainant was examined on solemn affirmation and further three inquiry witnesses were also examined who supported the allegations as made out in the complaint petition and then the learned Magistrate passed the impugned order.

Submission on behalf of the petitioners is that the petitioner are *dewars*, mother-in-law and distant relation of the complainant, they have got no concern with the family affairs of the complainant and her husband, they are resident of village-Baraut, P.S. Handiya, Chowki- Baroth, District- Allahabad, (U.P.) and as alleged the occurrence has taken place at Baraut. P.S. Handiya Chowki in the District of Allahabad (U.P.) and, as such,



the order passed at Kaimur is without jurisdiction. Demand was made at Baraut, P.S. Handiya and alleged torture and assault were also made there. The complainant has wrongly stated that the husband, the mother-in-law and petitioner no.4 (Babu) came at Barkat Nagar, Mohaniya and refused to take away her without payment of Rs. 50,000/- these allegations have been made only with a view to create jurisdiction and, as such, the impugned order is fit to be set aside.

The learned A.P.P. and learned counsel for the opposite party no.2 on the other hand, submitted that on the basis of complaint petition, and the statement on solemn affirmation and statement of inquiry witnesses, the order has been passed which is quite legal, proper and correct and there is no need to any interference by this court. At the time of taking cognizance the court is required only to see as to whether on the basis of materials collected during inquiry prima facie offence is made out or not, the defence of the accused persons cannot be looked into. The petitioner no.3 and 4 have also come with the husband at Barkat Nagar, Mohaniya and there also they demanded the amount of Rs. 50,000/- in presence of petitioner 3 and 4. The husband assaulted the complainant, resulting, her pregnancy was aborted, there is no illegality, incorrectness or impropriety in the impugned order and, as such, this Criminal Miscellaneous being devoid of merit is fit to be



dismissed.

Having considered the submissions urged at the Bar going through the record and noticing that in the complaint petition there is allegation against the petitioners also and some part of the occurrence has been caused at Barkat Nagar, Mohaniya also and, as such, the impugned order passed is within jurisdiction, against the petitioners also there is allegation for torturing and assaulting due to non-fulfillment of demand of Rs. 50,000/- by way of dowry for doing business of boxes and, as such, the learned Magistrate after perusal of the complaint petition, statement of the complainant on solemn affirmation and the statement of inquiry witnesses has rightly held that a prima facie case under Section 498-A of the Indian Penal Code is made out against all the accused persons named in the complaint petition and there is sufficient material on the record for further proceeding against them. There being no illegality, incorrectness or impropriety, the same do not require any interference by this court.

In the result, finding no merit in this Criminal Miscellaneous, the same is hereby dismissed.

(Jitendra Mohan Sharma, J.)

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