

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.49609 of 2014

Arising Out of PS.Case No. -64 Year- 2014 Thana -PATNA COMPLAINT CASE District- PATNA

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1. Jaya Laxmi @ Jaya Laxmi Devi Wife of Sri Shakti Suman Kumar
 2. Ramanuj Sharma Son of Late Gayani Singh
 3. Shakti Suman Kumar Son of Sri Ramanuj Sharma All resident of North S.K. Puri, Kasturba Patha, Patna-13, P.S. - S.K. Puri, District - Patna

.... Petitioners

Versus

1. The State of Bihar
2. Bibha Kumari, Wife of Sri Sant Kumar Resident of Village - Pashura, P.S. - Sigori, District - Patna, at present residing Village - Noawna Colony, Ward No. 2 Nagar Prashad Barh, P.S. - Barh, District - Patna

.... Opposite Party

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Appearance :

For the Petitioner/s : Mr. Dilip Kumar Tondan, Advocate
For the Opposite Party : Mr. Prashant Kumar, Advocate
For the State : Mr. Satyendra Nr. Singh, APP

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CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD

ORAL JUDGMENT

Date: 18-10-2017

Heard learned counsel for the petitioners,
learned counsel for the opposite party no. 2 and learned
Additional Public Prosecutor for the State.

Petitioner no. 1, in the present case, is the wife
of the cousin brother of the husband, petitioner no. 2 is the
brother of the father-in-law and petitioner no. 3 is the cousin
brother of the husband of the complainant-Opposite Party



No. 2.

2. All these three petitioners are seeking quashing of the order dated 31.05.2014 passed in Complaint Case No. 64(C) of 2014 by learned S.D.J.M., Barh by which he has taken cognizance of the offences under Section 498A of the Indian Penal Code read with Section 3 of the Dowry Prohibition Act, and issued summons to the petitioners.

Learned counsel for the petitioners submits that a perusal of the complaint petition would show that the marriage between the accused no. 1, Sant Kumar, and the complainant was solemnized sometime on 29.04.1992 in accordance with the Hindu rites and customs. The father-in-law of the complainant was very much alive at that time and he had fixed the marriage, even otherwise this petitioner no. 2 happened to be younger brother of the father-in-law who had no say in the family affairs of his elder brother. The complaint petition also disclosed that the complainant was allegedly thrown out of Patna house on 03.07.2007 for which no complaint whatsoever was lodged.

Learned counsel submits that in the complaint petition, it is alleged that these petitioners and the husband



of the complainant had by pressurizing the father and brothers of the complainant took Rs. Three lacs in the name of marriage expenses. It is further alleged that on account of dowry also a motorcycle, colour Television, Fridge and Washing Machine were given by the father of the complainant as gift, gold chain and ring were given to the husband.

Submission is that these allegations nowhere connect even with a *prima facie* view the involvement of these petitioners in any demand of dowry. In fact, the petitioners have been falsely implicated by making ornamental allegations against them. The petitioners have enclosed the copy of the certified copy of the application filed before the permanent Lok Adalat, Patna in the year 2005, wherein with the mutual consent the entire joint family properties between the petitioner no. 2 family and family of the informant's husband were partitioned and both the co-sharers lives separately in mess and business.

The petitioners have also brought on record the rent receipts of the holding of the house in which the petitioner no. 2 is living at Patna separately. The documents



enclosed as Annexure-2, which are in the nature of the petition and record of the Lok Adalat, and rent receipt issued by the Patna Municipal Corporation are uncontroverted documents, as despite having appeared before this Court, the Opposite Party No. 2 has not filed any affidavit in opposition to controvert these documents.

On the other hand, learned counsel representing the complainant-Opposite Party No. 2 submits that in the present case cognizance has been taken on the basis of the statement on oath and the statement of inquiry witnesses which need not be interfered with by this court.

Learned Additional Public Prosecutor for the State opposes the application.

This Court has considered the materials available on record. A perusal of the complaint petition takes this court to form an opinion that in this case where the marriage was solemnized in the year 1992, filing of the present case against the cousin father-in-law, cousin brother of husband and his wife is a sheer mala fide exercise by the complainant-Opposite Party No. 2 with an intention to involve the entire family members who are living separately in mess and



business and it appears from uncontroverted documents in form of Annexure-2 that these petitioners have partitioned with the family of the husband of Opposite Party No. 2. The allegation of demand of dowry and/or the allegations of committing any act of cruelty are totally vague and general in nature with sole intention to create a case against these petitioners. It is apparent that due to matrimonial discord between the complainant-Opposite Party No. 2 and her husband since long, the complainant-Opposite Party No. 2 was residing in her Naihar which fact has also come with the deposition of the inquiry witnesses. This Court has been informed by learned counsel for the petitioners that now the complainant-Opposite Party No. 2 is living with her husband and they have resolved amicably, this position has however not been confirmed by the learned counsel representing the complainant-Opposite Party No. 2.

In the totality of the facts emerging from the complaint petition that the marriage is of the year 1992, the petitioner no. 2 happened to be younger brother of the father-in-law of Opposite Party No. 2 and that her own father-in-law was alive till 1999, the other petitioners are



cousin brother of her husband and his wife it cannot be believed that they will indulge in demand of dowry and cruelty against Opposite Party No. 2, and the deposition of inquiry witnesses are totally vague. This court takes a view that the allegations are vague and general in nature and no *prima facie* case of committing any act of cruelty so as to constitute an offence under Section 498A of the Indian Penal Code or demand of dowry which may fall under Section 3/4 under the Dowry Prohibition Act is made out against these petitioners. The order taking cognizance and issuance of summons appears to have been passed in a routine and mechanical manner.

In the result, the impugned order in so far as it relates to the petitioners is hereby quashed and the application is allowed to the extent indicated above.

(Rajeev Ranjan Prasad, J.)

Rajeev/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	30.10.2017
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