

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.18854 of 2017

Arising Out of PS.Case No. -341 Year- 2015 Thana -BUDDHACOLONY District- PATNA

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1. Nitish Kumar @ Bablu son of Bhupendra Singh
 2. Bhupendra Singh son of Late Akhilanand Singh
 3. Minta Devi wife of Bhupendra Singh

All are residents of village- Vyapur, P.S. Maner, District- Patna.

.... Petitioner/s

Versus

1. The State of Bihar.
2. Sabita Kumari daughter of Hari Narayan Rai at present residing at Dewanti
Bhawan Dujara Pahalwan Ghat, P.S.- Budha Colony, District- Patna.

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Uday Kumar, Advocate

For the State : Mr. Ramchandra Singh, APP

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CORAM: HONOURABLE MR. JUSTICE ASHWANI KUMAR SINGH
ORAL JUDGMENT

Date: 20-11-2017

This application under Section 482 of the Code of Criminal Procedure (for short 'the CrPC') has been filed by the petitioners for quashing the order dated 09.11.2016 passed by the learned Judicial Magistrate, 1st Class, Patna in G.R. No.9048 of 2015 (Tr. No.2900 of 2007) arising out of Budha Colony P.S. Case No.341 of 2015 whereby and whereunder the learned Magistrate has summoned the petitioners to face trial for the offences punishable under Sections 341, 323, 498A, 504 and 506 read with Section 34 of the Indian Penal



Code (for short 'the 'IPC') and Sections 3 and 4 for the Dowry Prohibition Act (for short 'the D.P.Act').

2. From perusal of the First Information Report (for short 'the FIR') it would be manifest that the informant has alleged that she was married to one Manish Kumar @ Guddu son of petitioners no.2 and 3 and brother of petitioner no.1 on 14.12.2010, but after some time of marriage the accused persons started subjecting her to cruelty mentally and physically for non-fulfillment of demand of dowry. She has alleged that on a demand of rupees five lacs made by the accused persons, her mother could somehow manage rupees three lacs and gave to them, but due to non-fulfillment of entire demand she was abused, assaulted and kicked out of her matrimonial home on 09.06.2014 along with her two minor children. Thereafter, they came to her parental home and assaulted her there also.

3. On the basis of the aforesaid allegations, the police registered an FIR and on completion of investigation the allegations made in the FIR were found to be true and a report under Section 173(2) of the CrPC was filed in the court pursuant to which the learned Magistrate vide impugned order dated 09.11.2016 took cognizance of the offences alleged and summoned the petitioners.

4. Learned counsel for the petitioners submitted that there was matrimonial discord between the husband and wife and



petitioners being relatives of the husband have wrongly been dragged in the present case. It is submitted that prior to the institution of the FIR, the husband of the informant had already instituted Matrimonial (Divorce) Case No.1012 of 2015 in the Family Court, Patna.

5. On the contrary, learned counsel for the State submitted that filing of matrimonial case would be of no consequence as the informant has made specific allegations against the petitioners that they abused, assaulted and kicked out the informant from her matrimonial home and they also abused her after going to her parental home.

6. I have heard learned counsel for the parties and perused the record. I find force in the submissions made by the learned counsel for the State.

7. Having regard to the materials on record, I do not see any illegality in the order passed by the learned Magistrate. The statements made by the informant in the FIR do attract ingredients of the offences alleged against the petitioners. The witnesses examined during investigation have supported the allegations made by the informant. The learned Magistrate after having perused the materials on record found sufficient materials to proceed against the petitioners and took cognizance of the offences. As far as filing of matrimonial case prior to the institution of the FIR by the husband of the informant



is concerned, the same can be looked into by the trial court at appropriate stage during trial.

8. The application, being devoid of any merit, is dismissed.

(Ashwani Kumar Singh, J)

Md.S./-

AFR/NAFR	NAFR
CAV DATE	N/A
Uploading Date	
Transmission Date	

