

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.113 of 2014

Arising Out of PS.Case No. -164 Year- 2011 Thana -BEUR District- PATNA

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1. Ramesh Kumar, Son of Kamta Prasad Resident of Mohalla-Harishchandra Nagar, Patel Nagar Near Rajendra Krishi Vidyalaya, East Sipara, P.S.-Beur, District-Patna.
 2. Kamta Prasad, Son of Late Ganga Prasad, Resident of Mohalla-Harishchandra Nagar, Patel Nagar Near Rajendra Krishi Vidyalaya, East Sipara, P.S.-Beur, District-Patna.
 3. Rita Devi, Wife of Kamta Prasad, Resident of Mohalla-Harishchandra Nagar, Patel Nagar Near Rajendra Krishi Vidyalaya, East Sipara, P.S.-Beur, District-Patna.

.... Petitioners

Versus

1. The State of Bihar,
2. Kanchan Kumari, D/o Devnandan Prasad, W/o Rajesh Kumar, Resident of Mohalla-Chandrabanshi Nagar, P.S. Gardhanibag, District-Patna.

.... Opposite Parties

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Appearance :

For the Petitioner/s : Mr. Sameer Ranjan, Advocate
For the Opposite Party/s : Mr. Rajesh Kumar, APP

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CORAM: HONOURABLE MR. JUSTICE RAJENDRA KUMAR MISHRA
ORAL JUDGMENT
Date: 28-08-2017

Heard learned counsel for the petitioners and learned A.P.P.
appearing on behalf of State.

2. This application has been filed under Section 482 of the Code of Criminal Procedure to quash the order dated 01.11.2012 passed in Beur P.S. Case No. 164 of 2011, whereunder the learned Chief Judicial Magistrate, Patna took cognizance of the offence under Sections 498(A)/34 of the Indian Penal Code and Section 3/4 of Dowry Prohibition Act against the accused-petitioners and one Rajesh Kumar.

3. The fact leading to this application is that informant-O.P. No.2 Kanchan Kumari filed the written report before the Beur Police Station, Patna to the effect that on 27.11.2009, her marriage was performed with Rajesh Kumar, son of petitioner Nos.2 and 3. After the



marriage she went at her matrimonial house in Bidai, where she was kept properly for one or two months. Thereafter, her husband and other in-laws started demanding cash in dowry on which she replied that her father has already spent much money in her marriage. She informed about demand to her father, who showed his helplessness, but he gave Rs. 10,000/- to her in-laws. Later on, Rajesh Kumar, husband of O.P. No.2 started to demand Rs. 2 lakhs to her for obtaining job at Bokaro. The O.P. No.2 informed the matter to her parents then they came and showed their inability to fulfill the demand of Rs. Two lakhs. Thereafter, she was being tortured through various modes by her husband, father-in-law, Mother-in-law and Brother-in-law. In the meantime, maternal grandmother (Nani) of her husband was also called from Dhanbad, who also convinced her to bring money to her parents saying that after obtaining the job at Bokaro by her husband, her future will be bright. In spite of best efforts, her father could not arrange the money. Thereafter, she was being tortured by her husband and in-laws as named in the F.I.R. giving threatening to perform remarriage of her husband Rajesh Kumar.

4. On the basis of the written report of O.P. No.2, Beur P.S. Case No. 164 of 2011 was instituted on 14.11.2011 for the offence under section 498(A)/34 of the Indian Penal Code and Section 3/4 of Dowry Prohibition Act against the accused-petitioners along with Rajesh Kumar and maternal grandmother of Rajesh Kumar. The Police, on investigation, submitted Chargesheet only against Rajesh Kumar, Petitioner No.2 Kamta Prasad, petitioner No.3 Rita Devi, husband, father-in-law and mother-in-law finding the case true under Section 498(A)/34 of the Indian Penal Code and Section 3/4 of Dowry



Prohibition Act and submitted Final Form against petitioner No.1 Ramesh Kumar and maternal grandmother of husband of informant-O.P. No.2.

5. On perusal of the case diary, the learned Chief Judicial Magistrate took the cognizance of the offence under Section 498(A)/34 of the Indian Penal Code and Section 3/4 of Dowry Prohibition Act against the accused petitioners and Rajesh Kumar arriving at conclusion that in paragraph Nos. 3, 4, 5, 6 and 7, the witnesses have stated their involvement in demand of dowry and torturing for same to informant-O.P. No.2.

6. Learned counsel appearing on behalf of petitioners submits that in para 75 and 76 of the case diary, independent witnesses, namely, Pradeep Narayan and Surendra Prasad have stated that at the time of alleged occurrence, the petitioner No.1 Ramesh Kumar, brother-in-law of the informant-O.P. No.2, was student and he had no concerned with the demand of dowry and torturing for same to her, but the learned C.J.M., Patna has also took the cognizance illegally for the offence under Sections 498(A)/34 of Indian Penal Code and Section 3/4 of Dowry Prohibition Act against him.

7. On the other hand, learned APP submits that there is no illegality in the impugned order regarding summoning of accused petitioners along with Rajesh Kumar, husband of the O.P. No.2 as the informant, her parents and other witnesses in paragraph Nos. 3, 4, 5, 6 and 7 have specially detailed the name of the petitioners and Rajesh Kumar in-laws and husband of the informant/O.P. No.2 for torturing her due to non-fulfillment of demand of dowry.



8. On perusal of the impugned order, it appears that learned Chief Judicial Magistrate, Patna arrived at conclusion that the witnesses in paragraph Nos. 3,4,5,6 and 7 of the case diary have stated about torture and harassment to informant/O.P. No.2 by her husband Rajesh Kumar, father-in-law Kamta Prasad (Petitioner No.2), Mother-in-law Rita Devi (Petitioner No.3) and brother-in-law Ramesh Kumar (Petitioner No.1) for non-fulfillment of demand of dowry.

9. As such, I do not find any illegality in the impugned order amounting to abuse of process of Court for interference in extraordinary jurisdiction under Section 482 Cr.P.C. Accordingly, this application is dismissed.

(Rajendra Kumar Mishra, J)

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AFR/NAFR	NAFR
CAV DATE	N.A
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