

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.46129 of 2013

Arising Out of PS.Case No. - 249 Year- 2012 Thana – Sour Bazar District- SAHARSA

=====

Rambilash Mehta S/O Late Ugranarayan Mehta Resident of Village- Kadhaiya,
Police Station- Sour Bazar, District- Saharsa At Present residing at Ward No.-22,
Hatia Gachi, Police Station and District- Saharsa

.... Petitioner/s

Versus

1. The State Of Bihar
2. Ragini Kumari W/O Bimal Kumar Mehta, Resident of Village- Kadhaiya, Police
Station- Sour Bazar, District- Saharsa

.... Opposite Party/s

=====

Appearance:

For the Petitioner/s : Mr. Satish Kumar Singh, Advocate.

For the Opposite Party - State : Mr. Ajay Kumar Jha, A.P.P.

For the Opposite Party no. 2 : Mr. Bijay Bhushan Prasad, Advocate.

=====

CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD

CAV JUDGMENT

Date: 01-07-2017

Heard learned counsel for the petitioner and learned
A.P.P. for the State as well as learned counsel appearing on behalf of
the opposite party no. 2.

The petitioner in the present case is seeking quashing of
the order taking cognizance and issuance of summons dated
01.05.2013 passed by learned Judicial Magistrate 1st Class, Saharsa in
Sour Bazar P.S. Case No. 249 of 2012 / G.R. Case No. 1480 of 2012,
under Sections 498(A), 323, 324, 307/34 of the Indian Penal Code.

The prosecution case, as alleged in the First Information
Report, is that the informant – opposite party no. 2 was married with



one Vimal Kumar Mehta about 15 years back. It is alleged that at the time of marriage the parents of the informant had given adequate dowry, however, after marriage, her husband and other accused persons (named at Sl. No. 1 to Sl. No. 7) were torturing the informant and were also assaulting her. The informant was being asked to go back her home failing which she was being threatened to be killed. The informant alleged that attempts were made on many occasions to kill her, however, whenever she went to the Police Station, the people in the village convinced her that such occurrence shall not take place again. She further alleged that her children were also convinced against her which resulted in her complete breaking in life. She further alleged that on the date of occurrence, she had gone to purchase medicine from a medicine shop as she was having pain in her stomach. She was given a wrong medicine which she consumed and after consumption, she came to know that wrong medicine has been given to her. On information, her sister's husband and elder sister brought her to IGIMS where she was treated. She alleged wrong relationship between her husband and her Bhabhi as also with other women. She further alleged that during her treatment her Fardbeyan was recorded by Shashtrinagar Police Station but no F.I.R. was lodged, therefore, she was enclosing the same with a request to take action.



On the basis of these allegations, the present case was registered under Sections 498(A), 323, 324, 307/34 of the Indian Penal Code. It appears that after investigation, police has submitted a chargesheet against all the accused persons except accused no. 2, namely, Shakuntala Devi, who is the mother-in-law of the informant. So far as the present petitioner is concerned, he claims that he happens to be the first cousin of the husband of the informant and is living separately in mess and business. He has enclosed a copy of the Identity Card showing that he was working as a Senior Accounts Assistant in the Office of the Executive Engineer, Supaul. He submits that he is not even living in the village where the informant lives.

Learned counsel for the petitioner submits that the petitioner is a distant relation of the husband of the informant, no role has been attributed against him in the F.I.R., however, he has been falsely implicated and a chargesheet was submitted against him without there being any material. He further submits that the order taking cognizance is bad and is liable to be set aside as regards the present petitioner.

Learned counsel for the opposite party no. 2 opposed the prayer for quashing of the order taking cognizance and issuance of summons against the petitioner as according to him there are sufficient materials against the present petitioner which have been



collected in course of investigation and on that basis only the cognizance has been taken and summons has been issued against the present petitioner also.

I have perused the records. On record there is nothing except the First Information Report and the order taking cognizance. In this case, investigation has already been completed and on completion of investigation, the learned magistrate has perused the chargesheet / final form and then decided to take cognizance as also to issue summons against the present petitioner. It is not the case of the petitioner that from the statements made in the F.I.R. no offence is made out. It is well settled that every minute detail need not be there in the F.I.R. On the basis of the materials on record before this Court, I do not find it fit to interfere with the order taking cognizance and issuance of summons. This case is of the year 2013 and at this stage, in the opinion of this Court, instead of interfering with the impugned order, it would be just and proper to direct the learned magistrate before whom the case is pending to pass further orders towards framing of charge by following the established procedure of law under the Code of Criminal Procedure giving full opportunity to the accused petitioner to place his case at the time of framing of charge. The learned magistrate will pass appropriate order on the point of framing of charge within a period of three months from the date of



receipt of a copy of this order. The petitioner shall be in a position to refer all the materials collected against him in course of investigation and raise all such grounds and submissions which are available to him, at the time of framing of charge.

In the circumstances stated here-in-above, the prayer for quashing of the order taking cognizance and issuance of summons dated 01.05.2013 as regards the present petitioner is refused subject however to the observations and directions given here-in-above.

(Rajeev Ranjan Prasad, J)

Dilip, AR

AFR/NAFR	NAFR
CAV DATE	28.06.2017
Uploading Date	01.07.2017
Transmission Date	01.07.2017

