

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No. 48025 of 2013

Arising out of P.S. Case No. - null Year - null Thana - null District - JEHANABAD

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Rakesh Thakur, S/O Late Ramsharan Thakur, Resident of Village - Mahuri Milki,
P.S. - Islampur, District - Nalanda

.... Petitioner

Versus

1. The State of Bihar
2. Mamta Devi, D/O Ram Ishwar Thakur, Resident of Village - Ranipur, P.S. -
Kanko, Distt. - Jehanabad

.... Opposite Parties

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Appearance :

For the Petitioner	: Mr. Ashok Kumar Sinha, Advocate Mr. Sudhir Kumar Sinha, Advocate
For the Informant	: Mr. Kuber Pathak, Advocate
For the State	: Mr. Veerendra Narayan, A.P.P.

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CORAM: HONOURABLE MR. JUSTICE BIRENDRA KUMAR

ORAL JUDGMENT

Date: 09-01-2017

Heard learned counsel for the petitioner as well as
learned counsel for the opposite parties the State of Bihar and
opposite party no. 2 Mamta Devi.

This application is under Section 482 Cr.P.C. to quash
the impugned order dated 04.01.2008 against the petitioner whereby
the petitioner and other co-accused persons have been issued
summons to face trial for offences under Sections 323, 498A and 312
of the Indian Penal Code in connection with Complaint Case No. 902
of 2007 by the learned Sub-Divisional Judicial Magistrate, Jehanabad.

Submission of the petitioner is that the petitioner is
distant relation of the matrimonial family of complainant Mamta Devi
and a bare perusal of the complaint petition would reveal that



allegation against the petitioner is general and omnibus.

Learned counsel submits that the present proceeding against the petitioner, who is a member of armed forces, has been brought just to cause undue harassment. Contention is that now a tendency has developed in the society that for dispute between husband and wife, the entire family members and relations including some distant relations are falsely roped with such type of allegation just to put wrong pressure. Learned counsel has placed reliance on case of **Shiv Jee Rai vs. The State of Bihar & Anr.** reported in **2013(3) PLJR 139** and on case of **Ajay Kumar Chaudhary & Ors. vs. The State of Bihar & Anr.** reported in **2014(3) PLJR 263**.

In Shiv Jee Rai's case (supra) the similar allegation against the petitioner was vague and omnibus similar to the present case and in para 7 of the judgment, the Court has observed as follows:-

“7. It is also a matter of common knowledge that exaggerated versions of the incident are reflected in a large number of complaints. The tendency of over implication has become affair of the day that has been noticed by the Hon'ble Supreme Court in the case of **Preeti Gupta and Another vs. State of Jharkhand and Another**, reported in A.I.R. 2010 SC 3363 [: 2010(4) PLJR (SC)36] and recently the Hon'ble Supreme Court in the year 2012 in the case of **Geeta Mehrotra and Another vs. State of U.P. and Another*** passed in Criminal Appeal No. 1674 of 2012 in paragraph nos. 14, 17, 19, 20, 21 and 27 where in



the similar fact and situation the Hon'ble Supreme Court has held that now it became tendency in general to rope all the family members in a case under Section 498A of the Indian Penal Code in order to (sic) undue harassment to the family members. It will be appropriate to quote paragraph nos. 34 and 35 of the aforesaid judgment in the case of **Preeti Gupta** (*supra*):—

34. Unfortunately, at the time of filing of the complaint the implications and consequences are not properly visualised by the complainant that such complaint can lead to insurmountable harassment, agony and pain to the complainant, accused and his close relations.

35. The ultimate object of justice is to find out the truth and punish the guilty and protect the innocent. To find out the truth is a Herculean task in majority of these complaints. The tendency of implicating the husband and all his immediate relations is also not uncommon. At times, even after the conclusion of the criminal trial, it is difficult to ascertain the real truth. The courts have to be extremely careful and cautious in dealing with these complaints and must take pragmatic realities into consideration while dealing with matrimonial cases. The allegations of harassment of husband's close relations who had been living in different cities and never visited or rarely visited the place where the complainant resided would have an entirely different complexion. The allegations of the complainant are required to be scrutinised with great care and circumspection.”

In Ajay Kumar Chaudhary's case (*supra*) also the allegation was general and omnibus against the petitioners similar to the present case and in para 12 of the judgment, the Court has



observed as follows:-

“12. The Apex Court, in the case of **G.V. Rao vs. L.H.V. Prasad and Others**, reported in (2000)3 SCC 693, has deprecated the deliberate implication of entire family members of the husband. Paragraph No. 12 of the judgment is as under:—

"There has been an outburst of matrimonial disputes in recent times. Marriage is a sacred ceremony, the main purpose of which is to enable the young couple to settle down in life and live peacefully. But little matrimonial skirmishes suddenly erupt which often assume serious proportions resulting in commission of heinous crimes in which the elders of the family are also involved with the result that those who could have counselled and brought about rapprochement are rendered helpless on their being arrayed as accused in the criminal case. There are many other reasons which need not be mentioned here for not encouraging matrimonial litigation so that the parties may ponder over their defaults and terminate their disputes amicably by mental agreement instead of fighting it out in a court of law where it takes years and years to conclude and in that process the parties lose their "young" days in chasing their "cases" in different Courts."

Learned counsel for the opposite parties does not dispute that allegation against the petitioner is general and omnibus.

Considering the facts of this case specially the fact that allegation against the petitioner is general and omnibus as also considering the aforesaid judgments, I am of the view that the impugned order is not sustainable in law so far the petitioner is



concerned, hence, the same is quashed and this application stands allowed.

(Birendra Kumar, J.)

Kundan

AFR/NAFR	A.F.R.
CAV DATE	N.A.
Uploading Date	
Transmission Date	13.01.2017

