

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.11927 of 2015

Arising Out of PS.Case No. -675 Year- 2011 Thana -BEGUSARAI COMPLAINT CSAE District-
BEGUSARAI

- =====
1. Girish Kumar Rai Son of Late Ram Kishan Rai Resident of Village - Gaura, P.S. - Teghra, Distt. - Begusarai.
 2. Heera Devi Wife of Late Pasupati Rai Resident of Village - Gaura, P.S. - Teghra, Distt. - Begusarai.

.... Petitioner

Versus

1. The State of Bihar
2. Nutan Kumari D/o Ram Charitar Kunwar Resident of Village - Tazpur, P.S. - Teghra, Distt. - Begusarai.

.... Opposite Party

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Appearance :

For the Petitioners	:	Mr. Sandip Kumar Gautam
For the State	:	Mr. Gajendra Prasad Yadav (App)
For O.P. No. 2	:	Mr. Sunil Kumar Singh

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CORAM: HONOURABLE MR. JUSTICE ARUN KUMAR
ORAL ORDER

4 05-01-2018 Heard learned Counsel for the petitioner as well as the learned Counsel for the State as also the learned Counsel appearing on behalf of the Opposite party No. 2.

The petitioners seek quashing of the cognizance order dated 21.7.2011 passed by learned SDJM Begusarai in connection with Complaint Case No. 675 (C) of 2011, thereby taking cognizance of the offence under Sections 498A and 323 of the IPC and Section 4 of the Dowry Prohibition Act.

The brief fact giving rise to the case is that on 27.2.2009 the complainant was married with Pritam Kumar, son of petitioner No. 1, but after marriage all accused persons started torturing her in order to



realise Two Lakh rupees in cash and motorcycle as further dowry and on 18.3.2011 on the pretext to attend natural call she escaped away from the matrimonial home as accused persons were conspiring to set fire on her body.

Learned Counsel appearing on behalf of the petitioners submits that the allegation against the petitioners, who are father-in-law and cousin mother-in-law of the complainant, are only general and omnibus, only their names are given in the complaint making general allegation of demand of dowry. The specific allegation is only against the husband who runs a mobile shop and to the Court's query in her statement she has also stated that her husband does not like her.

Contrary to that, learned Counsel appearing on behalf of Opposite party No. 2 submits that the allegation is specific against these two petitioners also in the complaint and in the statement of two enquiry witnesses. The husband has again married with another girl.

Having considered the rival submission and on perusal of the record the court finds that only bald statement sweeping in nature has been leveled against these petitioners either in the complaint or the statement of the enquiry witnesses except casual reference of their names no specific overt act leading to torture and harassment is mentioned in the complaint. The specific allegation is against the husband. So prima facie ingredients of Section 498A and 323 IPC are not attracted against the petitioners. The learned Magistrate has mechanically taken cognizance against these two petitioners without



sufficient material and has summoned them also, so entire criminal proceeding inclusive the cognizance order dated 21.7.2011 passed in Complaint Case No. 675 (C) of 2011 with respect to these two petitioners only is set aside.

In the result the application stands allowed.

(Arun Kumar, J.)

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