

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.11312 of 2012

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Ravi Kumar son of Shri Indra Deo Prasad, resident of Mohalla Kumhrar
(Gobar Toli) Behind Kali Mandir, P.S. Agam Kuan, Dist & Town- Patna

... .. Petitioner/s

Versus

1. The State Of Bihar
2. Binu @ Binu Verma W/O Ravi Kumar And D/O Shri Indra Deo Gupta
Resident Of House No. -524, Behind Jamuna Apartment, Nehru Nagar,
Boring Road, P.S- S.K. Puri, District & Town- Patna.

... .. Opposite Party/s

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with

Criminal Miscellaneous No. 11323 of 2012

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1. Indra Deo Prasad S/O Shri Jay Kumar Lal Resident Of Mohalla-
Kumhrar (GOBAR Toli), Behind Kali Mandir, P.S- Agam Kuan,
Dist & Town- Patna
 2. Anita Devi W/O Shri Indra Deo Prasad Resident Of Mohalla--
Kumhrar (GOBAL Toli), Behind Kali Mandir, P.S- Agam Kuan,
Dist & Town- Patna
 3. Vikash Kumar @ Sonu S/O Shri Indra Deo Prasad Resident Of
Mohalla- Kumhrar (GOBAR Toli), Behind Kali Mandir, P.S-
Agam Kuan, Dist & Town- Patna

... .. Petitioner/s

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1. The State Of Bihar
2. Binu @ Binu Verma W/O Ravi Kumar And D/O Shri Indra Deo Gupta
Resident Of House No. -524, Behind Jamuna Apartment, Nehru Nagar,
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... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Arun Kumar,



Mr. Raghubir Chandra &

Mr. Ranjeet Kumar, Advocates

For the Opposite Party/s : Mr. Ram Anurag Singh (App)

For the Opp. Party No. 2 : Mr. Jha Vikram

CORAM: HONOURABLE MR. JUSTICE ARVIND SRIVASTAVA
C.A.V. JUDGMENT

Date : 11-04-2018

Heard learned counsels for the petitioner, the State and the opposite party no. 2.

Petitioners, by means of this application under section 482 of the Code of Criminal Procedure, have invoked the inherent jurisdiction of this Court with prayer to quash the order dated 24.11.2011, passed by the learned Sub Divisional Judicial Magistrate, Patna in Complaint Case No. 443C of 2011 by which prima facie case under section 498A of the Indian Penal Code was found against the petitioners and complainant was directed to file requisites of summons.

Facts of the case, in short, is that complainant was married to the petitioner, Ravi Kumar, on 16.06.2010 and at the time of her marriage parents had given several lakhs of rupees as gift and expenses of marriage. The complainant spent few days in her sasural happily, but thereafter accused persons started mounting pressure on the complainant for demanding rupees seven lakhs from her parents, On non-fulfillment of the demand, the accused persons started



torturing her and termed as Mad. Due to torture made by the accused persons, the complainant went in depression for which she had to take medicines. It is also alleged that the younger brother of the husband even tried to commit rape upon the complainant, on which she informed his father and he came and without saying anything to anyone he took her back to his residence. On 06.06.2010 she again went to her Sasural, but on this occasion she was physically tortured. She was not provided food and was always called as Pagli.

Learned counsel appearing for the petitioners submits that petitioners are absolutely innocent and have not committed any offence as alleged in the complaint, rather they have been falsely implicated in this case. The present case has been lodged on basis of imaginary and concocted story in order to save their skin from the misdeeds which they have committed. General and omnibus allegations have been levelled against all the petitioners. There is serious contradiction in the statement of witnesses. As a matter of fact, the opposite party no. 2 is suffering from mental disorder, which would be evident from the medical prescription enclosed with this application as Annexure-3 series, but this fact was deliberately concealed by the opposite



parties. On knowing the aforesaid fact, the husband of the opposite party no. 2 also filed a Divorce Case before the Family Court, Patna bearing Matrimonial Case No. 859 of 2010 with specific prayer to annul the marriage. So far as allegation of handing over cheques is concerned, it is relevant to mention that petitioner no. 2 in Cr. Misc. No. 11323 of 2012 sits in a jewellery shop and different jewellery items were purchased by the father of the complaint and for payment of the bill cheques in question were given to the petitioners. Learned counsel accordingly submits that on basis of general and omnibus allegations, which are ornamental in nature, petitioners have been maliciously implicated in the present case, and as such, the order impugned is fit to be set aside.

Considering the materials available on record and the facts of the case, this Court finds substance in the submissions advanced on behalf of the petitioners. When petitioner-husband filed the matrimonial case for divorce, the present prosecution has been brought by the opposite parties. The present complaint has been filed after filing of the divorce case by the petitioner, which in terms of the judgment rendered by the Hon'ble Supreme Court in the case of *State of Haryana*



Vs. Bhajan Lal, reported in *1992 Supp (1) SCC 335* is a malicious prosecution. Relevant extract of paragraph 102 of the judgment is quoted hereinbelow for ready reference :

“In the backdrop of the interpretation of the various relevant provisions of the Code under Chapter XIV and of the principles of law enunciated by this Court in a series of decisions relating to the exercise of the extraordinary power under Article 226 or the inherent powers under Section 482 of the Code which we have extracted and reproduced above, we give the following categories of cases by way of illustration wherein such power could be exercised either to prevent abuse of the process of any Court or otherwise to secure the ends of justice, though it may not be possible to lay down any precise, clearly defined and sufficiently channelised and inflexible guidelines or rigid formulae and to give an exhaustive list of myriad kinds of cases wherein such power should be exercised:

(1) – (6)

(7) Where a criminal proceeding is manifestly attended with mala fide and/or where the proceeding is maliciously instituted with an ulterior motive for wreaking vengeance on the accused and with a view to spite him due to private and personal grudge.”

In view of the discussions made above, the order dated 24.11.2011, passed by the learned Sub Divisional Judicial Magistrate, Patna in Complaint Case No. 443C of 2011 by



which prima facie case under section 498A of the Indian Penal Code was found against the petitioners and complainant was directed to file requisites of summons, is not sustainable in the eye of law and is, hereby, quashed.

Both the applications, accordingly, stand allowed.

(Arvind Srivastava, J)

mcv/-

AFR/NAFR	NAFR
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