

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.12882 of 2012

Arising Out of PS.Case No. -172 Year- 2010 Thana -null District- PATNA

- =====
1. Ashok Kumar, son of Dr. Upendra Prasad Singh,
 2. Mira Devi @ Meera, wife of Ashok Kumar, both resident of Mohalla- Khemnichak, P.S. Ram Krishna Nagar, District- Patna, at present residing at village- Mahajpura, P.S. Bikram, District - Patna

.... Petitioner/s

Versus

1. The State of Bihar
2. Anjani Devi, D/O Rajesh Sharma, resident of Mohalla - Postal Park, Devi Lane, Panschani Gali, P.S.- Jakkanpur, District- Patna

.... Opposite Party/s

With

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Criminal Miscellaneous No. 16939 of 2012

Arising Out of PS.Case No. -172 Year- 2010 Thana -null District- PATNA

- =====
1. Nand Kishore Sharma, s/o late Chandrika Singh,
 2. Nilam Devi @ Neelam Sharma, W/O Nand Kishore Sharma, both resident of mohalla- Khemnichak, P.S.-Ram Krishna Nagar, District-Patna

.... Petitioner/s

Versus

1. The State of Bihar
2. Anjani Devi, W/O Suman Sharma, D/O Rajesh Sharma, resident of mohalla- Postal Park, Devi Lane, Paschim Gali, P.S.-Jakkanpur, District-Patna

.... Opposite Party/s

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Appearance :

(In Cr.Misc. No.12882 of 2012)

For the Petitioner/s : Mr. Bhaskar Shankar, Advocate
Mrs. Meena Singh, Advocate

For the Opposite Party/s : Mrs. S. Sharma, APP

(In Cr.Misc. No.16939 of 2012)

For the Petitioner/s : Mr. Bhaskar Shankar, Advocate
Mrs. Meena Singh, Advocate

For the Opposite Party/s : Mr. Amrendra Prasad, APP

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CORAM: HONOURABLE MR. JUSTICE SANJAY PRIYA

ORAL JUDGMENT

Date: 13-02-2018



1. These applications under Section 482 of the Code of Criminal Procedure have been filed for quashing the order dated 21.12.2011 passed by the Sub-Divisional Judicial Magistrate, Patna, in GR No.3805 of 2010 arising out of Jakkanpur P.S. Case No.172 of 2010, by which the learned Magistrate has taken cognizance against the petitioners and others for the offence under Section(s) 498-A/34 Indian Penal Code and Section 3/4 of the Dowry Prohibition Act.

2. In the instant cases, notice was issued to the Opposite Party No.2, which has validly been served.

3. In Cr. Misc. No.12882 of 2012, Opposite Party No.2 has appeared by filing Vakalatnama, but none appeared on behalf of the Opposite Party No.2 during hearing of the applications.

4. Allegation made by the Opposite Party No.2 in the written report is that she was married with Suman Sharma on 29.04.2004. She went to her matrimonial house after marriage and started living with her husband. After sometime, she was tortured by her husband, father-in-law, mother-in-law, sister-in-law (Nanad) and brother-in-law (Nandosi), for demand of rupees five lac and motorcycle. Opposite Party No.2 was asked to bring rupees five lac and motorcycle, otherwise, they will not allow to live her. Finally, she was ousted from her *Sasural*. The accused persons kept her all belongings.



5. Counsel for the petitioners has submitted that petitioners of Cr. Misc. No.12882 of 2012 are brother-in-law (Nandosi) and sister-in-law (Nanad) of the informant-Opposite Party No.2. Petitioners of Cr. Misc. No.16939 of 2012 are father-in-law and mother-in-law of the informant-Opposite Party No.2.

6. Counsel for the petitioners has further submitted that these petitioners have no concern with the affairs of the husband and wife. From the allegation in the written report, it appears that there is general and omnibus allegation against all the petitioners.

7. Learned Magistrate has mentioned in the impugned order that the police after investigation did not submit charge-sheet against the petitioners, namely, Ashok Kumar and Mira Devi @ Meera (petitioners of Cr. Misc. No.12882 of 2012), who are brother-in-law (Nandosi) and sister-in-law (Nanad) of the informant. The police submitted charge-sheet only against husband and parents-in-law, but the learned Magistrate has taken cognizance against these petitioners also along with husband for the offence under Section(s) 498-A/34 Indian Penal Code and Section 3/4 of the Dowry Prohibition Act.

8. This Court on perusal of the allegation in the written report finds that there is no allegation of any specific overt act against these petitioners.



9. There is growing tendency these days to implicate all the family members of the husband in the matrimonial dispute out of personal grudge and grievance to cause harassment to them.

10. The Hon'ble Supreme Court in the case of *Geeta Mehrotra and anr. vs. State of UP and anr.* reported in 2013 (1) *PLJR 10*, has held that the Courts are expected to adopt a cautious approach in matters of quashing specially in cases of matrimonial dispute whether the FIR in fact discloses commission of an offence by the relatives of the principal accused or the FIR prima facie discloses a case of over-implication by involving the entire family of the accused at the instance of the Complainant, who is out to settle her scores arising out of the teething problem or skirmish of domestic bickering while settling down in her new matrimonial surrounding.

11. In such circumstances, this Court finds that the impugned order is not in accordance with law with respect to the petitioners.

12. Therefore, impugned order dated 21.12.2011 passed by the Sub-Divisional Judicial Magistrate, Patna, in GR No.3805 of 2010 arising out of Jakkanpur P.S. Case No.172 of 2010, along with entire criminal proceeding with respect to the petitioners is hereby quashed.



13. The applications are, accordingly, **allowed**.

14. The Court below will proceed with the case in respect of other accused in accordance with law.

(Sanjay Priya, J)

J.Alam/-

AFR/NAFR	NAFR
CAV DATE	N/A
Uploading Date	20-02-2018
Transmission Date	20-02-2018

