

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.10113 of 2017

Arising Out of Complaint .Case No. -703 Year- 2016 Thana -PATNA COMPLAINT CASE
District- PATNA

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1. Aruna Devi, Wife of Late Sukhdeo Prasad Verma.
 2. Manohar Prasad, Son of Late Sukhdeo Prasad.
 3. Anita Verma, Wife of Manohar Prasad Verma.
 4. Prahlad Prasad Verma, Son of Late Sukhdeo Prasad Verma.
 5. Babita Kumari, Wife of Prahlad Prasad Verma.
 6. Deo Kumar Verma, Son of Late Sukhdeo Prasad Verma.
 7. Sunita Verma, Wife of Deo Prasad Verma.
 8. Vimal Kumar Verma, Son of Late Sukhdeo Prasad Verma.
 9. Rishi Verma @ Rishi Kumar, Son of Late Sukhdeo Prasad Verma.
 10. Rohit @ Munna Verma, Son of Late Sukhdeo Prasad Verma.
 11. Lalita Kumari, Daughter of Late Sukhdeo Prasad Verma.

All are Resident of Village/Mohalla + P.S.- Suryagarha, District- Lakhisarai.

.... Petitioners

Versus

1. The State of Bihar.
2. Punam Verma, Wife of Jay Kumar Verma, Resident of Village/Mohalla+ P.S.-
Suryagarha, District- Lakhisarai.

.... Opposite Parties

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Appearance :

For the Petitioner/s : Mr. Devendra Kumar Sinha, Senior Advocate
Mr. Ambika Bhagat, Advocate

For the Opposite Party/s : Mr. Akbar Ali, APP

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CORAM: HONOURABLE MR. JUSTICE ASHWANI KUMAR SINGH

ORAL JUDGMENT

Date: 09-03-2018

Heard learned counsel for the petitioners and learned



counsel for the complainant-opposite party no.2, who has appeared *suo motu*.

2. This application under Section 482 of the Code of Criminal Procedure (for short 'Cr. P.C.') has been filed by the petitioners for quashing the order dated 02.01.2017 passed by the learned Sub Divisional Judicial Magistrate, Patna City in Complaint Case No.703C of 2016 by which he has summoned the petitioners to face trial for the offence punishable under Section 498-A of the Indian Penal Code and Section 4 of the Dowry Prohibition Act.

3. In the complaint petition, the complainant-opposite party no.2 has alleged that she was married to Jay Kumar Verma on 28.05.2015 as per Hindu rites and customs. Her father had given Rs.8,00,000/- in cash and gifts worth Rs.1,75,000/- to said Jay Kumar Verma. After marriage, she was taken to her *sasural* where she was kept well for 2-3 days and, thereafter, she was asked to make a demand of Rs.2,00,000/- and a motorcycle from her parents. On refusal, she was subjected to cruelty by her husband and his relatives. Ultimately, on 02.06.2015, she was ousted from her matrimonial home for non-fulfilment of the alleged demand. Thereafter, she came back to her parents' house. A panchayati was held on 04.08.2016, but the accused persons refused to keep the complainant in her matrimonial home



unless the demand of Rs.2,00,000/- and motorcycle is fulfilled.

4. The complainant was examined on solemn affirmation and apart from her, three more witnesses were examined in course of inquiry conducted under Section 202 of the Cr. P.C. whereafter the learned Sub Divisional Judicial Magistrate vide impugned order dated 02.01.2017 summoned the petitioners to face trial.

5. It has been submitted by Mr. Devendra Kumar Sinha, learned Senior Advocate appearing for the petitioners that in the present case there is no specific allegation of any overt act against the petitioners who are relatives of the husband of the complainant. He submitted that only a vague allegation against them has been made in the complaint that all the accused persons subjected the complainant to cruelty. He submitted that the entire allegations made in the complaint so far as the petitioners are concerned are false. Even in the complaint, the complainant has stated that cash and gift was given to accused no.1, who is husband of the complainant at the time of marriage. According to him, the entire dispute arose due to incompatibility between the husband and wife with which the petitioners have no concern.

6. On the other hand, learned counsel appearing for the complainant submitted that the allegations made in the



complaint clearly attract ingredients of the offences punishable under Section 498A of the Indian Penal Code and Section 4 of the Dowry Prohibition Act. He submitted that the complainant has clearly stated that not only the husband, but all the accused persons demanded dowry and for non-fulfilment of the same, she was subjected to cruelty and was ousted from her matrimonial home. He submitted that the learned Magistrate has rightly summoned the petitioners to face trial and it would not be proper to interdict the criminal proceeding at the initial stage.

7. I have heard learned counsel for the parties and perused the record.

8. Petitioner no.1, namely, Aruna Devi is mother-in-law, petitioner nos.2, 5 and 6, namely, Manohar Prasad, Prahlad Prasad, Deo Kumar Verma are brothers-in-law (Bhaisurs), petitioner nos.3, 5 and 7, namely, Anita Verma, Babita Verma, Sunita Verma are sisters-in-law (Gotani), petitioner nos.8, 9 and 10, namely, Vimal Kumar Verma, Rishi Verma @ Rishi Kumar, Rohit @ Munna Verma are brothers-in-law (Dewars) and petitioner no.10 namely, Lalita Kumari is sister-in-law (Nanad) of the complainant. Except their names being mentioned in the complaint in the column of accused, there is no specific allegation against anyone of them. Only a casual reference has been made in the complaint that all the



accused persons subjected the complainant to cruelty and asked her to make demand and cash and motorcycle from her parents.

9. In **Gita Mehrotra and Ors. vs. State of U.P. and Anr. [(2013) 1 PLJR 10 (SC)]**, the Supreme Court quashed the proceedings initiated against the appellants who were sister and brother of the complainant's husband holding therein that there was no allegations against them except casual reference of their names being included in the FIR. The Supreme Court held that mere casual reference of the names of the family members in a matrimonial dispute without allegation of active involvement in the matter would not justify taking cognizance against them overlooking the fact borne out of experience that there is a tendency to involve the entire family members of the household in the domestic quarrel taking place in a matrimonial dispute specially if it happens soon after the wedding.

10. Considering the nature of allegation made in the complaint and the statements of witnesses recorded in course of inquiry, I deem it just and legally appropriate to quash the proceedings initiated against the petitioners who are all relatives of the husband and whose names have been given in the body of the complainant without there being any specific allegation made against them of being involved in physical and mental torture of the



complainant.

11. Accordingly, the impugned order dated 02.01.2017 passed by the learned Sub Divisional Judicial Magistrate, Patna City in Complaint Case No.703C of 2016 is quashed and set aside in so far as the petitioners are concerned.

12. The application stands allowed.

(Ashwani Kumar Singh, J.)

Sanjeet/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	10.03.2018
Transmission Date	10.03.2018

