

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.50464 of 2014

Arising Out of PS.Case No. -918 Year- 2013 Thana -BHOJPUR COMPLAINT CASE District -
BHOJPUR

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1. Om Prakash Prasad @ Om Prakash Narayan S/o- Late Rajendra Prasad,
2. Chanchala Devi W/o- Sri Om Prakash Prasad @ Om Prakash Narayan, Both are
resident of Village- Quarter No. 3, Mithapur, Old Police Chowky, P.S.- Jakkanpur,
Distt.- Patna

.... Petitioner/s

Versus

1. The State of Bihar
2. Geeta Devi, S/o- Sri Shyam Mohan Kumar, D/o- Sri Niranjan Prasad, R/v- D.M.
Road, Jagdishpur, P.S.- Jagdishpur, Distt.- Patna

.... Opposite Party/s

with

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Criminal Miscellaneous No. 50514 of 2014

Arising Out of PS.Case No. -918 Year- 2013 Thana -BHOJPUR COMPLAINT CASE District -
BHOJPUR

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1. Shyam Mohan Kumar @ Shyam Mohan S/o Sri Om Prakash Pd. @ Om Prakash
Narayan R/v- Quarter No. 3, Mithapur, Old Police Chowky, P.S.- Jakkanpur, Distt.-
Patna

.... Petitioner/s

Versus

1. The State of Bihar
2. Geeta Devi S/o- Sri Shyam Mohan Kumar, D/o- Sri Niranjan Prasad, R/v- D.M.
Road, Jagdishpur, P.S.- Jagdishpur, Distt.- Patna

.... Opposite Party/s

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Appearance :

(In Cr.Misc. No.50464 of 2014)

For the Petitioner/s : Mr. Vijay Kumar Sinha, Adv.

For the State : Mr. Kumar Birendra Narayan, APP

(In Cr.Misc. No.50514 of 2014)

For the Petitioner/s : Mr. Vijay Kumar Sinha, Adv. :

For the State : Md. FAhimuddin, APP.

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CORAM: HONOURABLE MR. JUSTICE SANJAY PRIYA

ORAL JUDGMENT

Date: 12-01-2018

Both petitions arise out of the same impugned order dated 21-11-



2014 passed by SDJM, Ara in Complaint Case No. 918 C of 2013 by which the learned Magistrate has found prima facie case u/S 498A of the Indian Penal Code.

Heard.

Petitioners in Cr. Misc. No. 50464 of 2014 are father-in-law and mother-in-law of the complainant.

From the allegation made in the complaint petition, it appears that there is general and omnibus allegation against these petitioners. These petitioners have no any concern with the family affairs of husband and wife. It further appears that the husband has filed the case for restitution of conjugal right vide Matrimonial Case No. 517 of 2013 which has been decreed in favour of the husband by judgment dated 30-06-2014 but the wife has not started her conjugal life with her husband even after passing of the order. The husband has also filed necessary petition before police to implement the aforesaid order.

In such circumstances, this court is of the view that continuance of criminal proceeding against father in law and mother in law (petitioners in Cr. Misc. No. 50464 of 2014) is an abuse of the process of the court and accordingly, the same is set aside.

Accordingly, the impugned order dated 21-11-2014 passed by SDJM, Ara in Complaint Case No. 918 C of 2013 along with entire criminal proceeding with respect to petitioners in Cr. Misc. No. 50464 of 2014 is quashed.

Cr. Misc. No. 50464 of 2014 is ***allowed***.

So far as case of the husband (petitioner in Cr. Misc. No. 50514 of 2014) is concerned, there is specific allegation against him of committing torture with the wife (complainant).



Therefore, this court is not inclined to interfere with the impugned order with respect to the petitioner in Cr. Misc. No. 50514 of 2014 by which, the court below has found prima facie case against the petitioner u/S 498A of the Indian Penal Code.

The criminal Misc. No. 50514 of 2014 with respect to the husband of the complainant is disposed of with direction to the husband to appear in the court below within a period of two months from the date of receipt of this order in the court below. He will file necessary petition in the court below in the event both husband and wife are living together in terms of judgment passed in Matrimonial Case No. 517 of 2013. The court below will pass appropriate order on filing of such petition in accordance with law expeditiously without being prejudiced by this order.

In the event no such petition is filed by petitioner within a period of two months from the date of receipt of this order, the court below will proceed in the case against petitioner of Cr. Misc. No. 50514 of 2014 (husband) in accordance with law.

(Sanjay Priya, J)

A.K.V./-

AFR/NAFR	AFR
CAV DATE	N/A
Uploading Date	31-01-2018
Transmission Date	31-01-2018

