

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.12211 of 2015

Arising out of P.S. Case No.814 Year 2013 Thana BHAGALPUR COMPLAINT CASE District
BHAGALPUR

- =====
1. Md. Saddam Hussain Son of Md. Jamil Akhtar
 2. Md. Jamil Akhtar Son of Late Md. Amin
 3. Shamima Khatoon @ Bibi Shamima Khatoon wife of Jamil Akhtar
 4. Majda Khatoon @ Masda Khatoon wife of Md. Shahjahan, Daughter of Md. Jamil Akhtar
 5. Sajda Khatoon @ Sasda Khatoon daughter of Md. Jamil Akhtar All resident of village - Fasiya Dangal, Police Station - Godda Santhal Pargana, District - Godda (Jharkhand)

.... Petitioners

Versus

1. The State of Bihar
2. Bibi Rukhsana Khatoon Daughter of Md. Quasim Resident of village - Asnaha, Police Station - Sanhoula, District - Bhagalpur

.... Opposite Parties

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Appearance :

For the Petitioners	:	Mr. Najmul Hodda, Advocate
For the State	:	Md. Mushtaque Alam, APP
For O.P. No.2	:	Mr. Rajesh Ranjan, Advocate

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CORAM: HONOURABLE MR. JUSTICE ARUN KUMAR

ORAL JUDGMENT

Date: 09-01-2018

Heard learned counsel for the petitioners, learned APP for the State as well as learned counsel appearing on behalf of opposite party no.2.

2. The petitioners seek quashing of order of cognizance dated 10.09.2013, passed by learned Judicial Magistrate, 1st Class, Bhagalpur in Complaint Case No.C-814/2013 thereby taking cognizance of the offence under Section 498A of the Indian Penal Code and consequently issued summons to stand trial.

3. The brief facts giving rise to the case is that the complainant's marriage was solemnized with Md. Saddam Hussain,



petitioner no.1 in the year 2009. Her husband was working as an Engineer in a private company in Gurgaon. After marriage she started living there with her husband but there the husband started torturing her for further dowry and on 15.12.2012 kicked her out of the matrimonial home while living in Gurgaon. The complainant returned back to her parents' home, who discussed the matter with the father-in-law and mother-in-law of the complainant, thereafter the father-in-law of the complainant came there and taken her back to the matrimonial home, her husband had also come there to take her back to Gurgaon, she went there and again taken to Gurgaon but her husband was insisting for purchasing a flat in Gurgaon and demanded cash of Rs.20,00,000/-. It is alleged that all other accused persons also asked her to request her father for purchasing a flat for Saddam. In that connection all accused persons used to abuse and assault her. On 22.04.2013 again she was kicked out from the matrimonial home, she came back to her parents' place and on 24.04.2013, again father-in-law, mother-in-law and others came there for Bidai and reiterated the demand for purchasing a flat or to give in cash Rs.20,00,000/-. The complainant and her parents protested then they abused and left the place.

4. Learned counsel for the petitioners submits that the allegation is false and fabricated. No such demand was made and all family members have been implicated in this case including the married and unmarried Nanad, petitioner nos.4 and 5 respectively. Learned



counsel for the petitioners also submits that the father-in-law and mother-in-law, petitioner nos.2 and 3 always tried to bring the complainant back to the matrimonial home and in fact the complainant always used to live with their son at Gurgaon where he was posted as Engineer in a private firm, so she was not living with the father-in-law and mother-in-law, only because of strained relationship with the husband, implicated all family members. It is further submitted that on 19.01.2013 the husband had filed a case for restitution of conjugal right as the complainant-wife without any reason left the matrimonial home and the complaint was filed on 30.04.2013, so there is no truth in the allegation that lastly on 22.04.2013 the complainant was ousted lastly from the matrimonial home.

5. Contrary to that the learned counsel appearing on behalf of opposite party no.2 submits that there is allegation against all petitioners and they all are involved in making demand and committing torture. There is specific allegation against the father-in-law and mother-in-law.

6. Having considered the rival submissions and on perusal of the records, the Court finds that the complainant after the marriage was living with her husband Saddam Hussain, petitioner no.1 most of the period at Gurgaon where he was posted in a private firm; while the parents of the husband were living at far distant place at Godda in Santhal Pargana (Jharkhand). There is specific allegation against the



husband that he used to make demand for purchasing a flat at Gurgaon or in alternative cash of Rs.20,00,000/-, so there is no ground to interfere with the cognizance order and for interfering in the criminal proceeding against the husband Saddam Hussain, petitioner no.1 hence criminal proceeding will continue further against him. As far as rest other petitioners are concerned, they are father-in-law, mother-in-law, married and unmarried Nanad and they were living at far distant place from Gurgaon. Only general and omnibus allegation is alleged against them. There is also statement in the complaint that father-in-law brought the complainant to matrimonial home when she was driven out by the husband from Gurgaon, so *prima facie* case under Section 498A of the Indian Penal Code is not being made out against petitioner nos.2 to 5, so criminal proceeding inclusive of the cognizance order dated 10.09.2013, passed by learned Judicial Magistrate, 1st Class, Bhagalpur in Complaint Case No.C-814/2013 with respect to petitioner nos.2 to 5 only is set aside.

7. The quashing application stands partly allowed.

(Arun Kumar, J.)

S.Kumar/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	17.01.2018
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