

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.21053 of 2016

Arising Out of PS. Case No.-364 Year-2015 Thana- AURANGABAD COMPLAINT CASE
District- Aurangabad

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1. Moni Perween @ Reshma Begum @ Moni Khatoon, wife of Md. Jawed
2. Md. Shameer @ Sameer, son of Md. Jawed
3. Aquib @ Md. Aquib, S/o- Md. Jawed
All residents of Khiddirpore, Circus Avenue, P.S. Wadganj, Kolkata,
West Bengal (Wrongly described in the complaint petition as residents of
Mohalla Gawal bigha, Bichli Masjit, P.S.- Rampur, District- Gaya)

... .. Petitioner/s

Versus

1. The State Of Bihar
2. Arju Perween, wife of Md. Fazal, daughter of Md. Suja, presently residing
at Mohalla- Dafal Tola, Ward no.3, P.S.- Daudnagar, District- Aurangabad

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Ashhar Mustafa, Advocate
For the Opposite Party/s : Mr. Ajit Kumar (App)

CORAM: HONOURABLE THE CHIEF JUSTICE
ORAL JUDGMENT

Date : 02-05-2018

Seeking quashing or an order dated 1.2.2016 passed by
the learned Sub-Divisional Judicial Magistrate, Daudnagar in Trial
No.2399 of 2016, arising out of Complaint Case No.364 of 2015
taking cognizance for an offence under Sections 498A of I.P.C. and
3/4 of Dowry Prohibition Act, this case has been filed under
Section 482 of Cr.P.C.

Respondent No.2 Arju Perween was married to one Md.
Fazal on 5.11.2012. She was staying with him and averments have
been made with regard to payment of various amounts towards



dowry. However, it is stated that on 2.3.2015 at about 12:00 noon, her husband used filthy language against her and started harassing her and assaulted her. Thereafter specific allegations are made against the husband. As far as the present applicants are concerned, applicant No.1 Moni Perween @ Reshma Begum @ Moni Khatoon is the sister of the husband and applicant Nos.2 and 3 Md. Shameer @ Sameer and Aquib @ Md. Aquib are the sons of applicant No.1. They are staying in Kolkata and are living separately.

From a reading of the complaint and the averments made by the complainant before the Court, learned counsel appearing for the applicants argues that except for making general and omnibus allegations against the present applicants, no specific overt acts of commission or omission are spelt out in the complaint which would constitute an offence under Section 498A of I.P.C. He invites my attention to the statement of the complainant to point out that no specific allegations or acts of commission or omission constituting an offence under Section 498A of I.P.C. have been made out against the present applicants.

A bare reading of the complaint and the statement of the complainant recorded makes out specific allegation against the husband and the mother-in-law, but not against the applicants.



Even though learned counsel appearing for the respondent submitted that looking to the nature of allegations made, for the present, indulgence into the matter be not made, I am of the considered view that, as far as the present applicants are concerned, apart from the fact that they are living separately from the family of the complainant and her husband, only omnibus and general allegations have been made against them and no specific acts of commission or omission are indicated either in the body of the complaint or the statement recorded before the court to implicate them under Section 498A of I.P.C.

Keeping in view the law laid down in the cases of Gian Singh vs. State of Punjab, (2012) 10 SCC 303, Taramani Prakash v. State of Madhya Pradesh, (2015) 11 SCC 260, Amit Kapoor v. Ramesh Chander, (2012) 9 SCC 460 and Kans Raj vs. State of Punjab, (2000) 5 SCC 207 it is a fit case where the complaint, so far as the present applicants are concerned, should be quashed and this application allowed.

Accordingly, this application is allowed and the order dated 1.2.2016 passed by the learned Sub-Divisional Judicial Magistrate, Daudnagar in Trial No.2399 of 2016, arising out of Complaint Case No.364 of 2015 taking cognizance for an offence



under Sections 498A of I.P.C. and 3/4 of Dowry Prohibition Act
against the present applicants is quashed.

(Rajendra Menon, CJ)

K.C.Jha/-

AFR/NAFR	NAFR
CAV DATE	N/A
Uploading Date	17.05.2018
Transmission Date	17.05.2018

