

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.33432 of 2017

Arising Out of P.S. Case No. -41 Year- 2017 Thana -KATIHAR COMPLAINT
CASE District- KATIHAR

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1. Akriti Kumari, D/o Sudhir Prasad Singh,
 2. Madhu Kumari D/o Sudhir Prasad Singh, Both are Resident of Siya Medical Hall, Nagar Palika Road, P.S. and District- Khagaria.
 3. Rinnu Devi @ Rinu Kumari, W/o Dr. Sanjeev Kumar Sinha, R/o Bazar Samiti, Musallahpur, P.S.- Saidpur, District- Patna.

.... Petitioners

Versus

1. The State of Bihar.
2. Nishi Singh @ Dr. Nishi Singh, W/o Dr. Chandan Kumar, D/o Dr. Arbind Kumar, R/o Lichi Bagan, Anathalaya Road, P.S. and District- Katihar.

.... Opposite Parties.

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Appearance :

For the Petitioners	:	Smt. Soni Shrivastava, Advocate Mr. Ravi Bhardwaj, Advocate
For the Opposite Party No.2	:	Mr. Pratik Kr. Sinha, Advocate
For the State	:	Mr. Navin Pandey, A.P.P.

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CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL JUDGMENT

Date: 17-09-2018

This application invoking the inherent jurisdiction of the court under Section 482 of the Code of Criminal Procedure has been preferred for setting aside the order dated 22.03.2017 passed by learned S.D.J.M., Katihar in C.A. No. 41/2017 filed by opposite party no. 2. By the impugned order the learned S.D.J.M., Katihar has taken cognizance of the offence under Section 498(A) of the I.P.C. and Section 4 of the Dowry Prohibition Act and issued summons



to these petitioners. The petitioners are aggrieved by the order issuing summons to them.

2. Learned counsel representing the petitioners submits that petitioner nos. 1 is the unmarried sister-in-law whereas petitioner nos. 2 & 3 are the married sisters-in-law of the opposite party no. 2. Opposite Party No. 2 has filed a complaint petition in the court of learned Chief Judicial Magistrate, Katihar (in short the "CJM") giving rise to C.A. No. 41/2017. In her complaint petition, a copy of which is annexed as Annexure-1 to the present application, the Opposite Party No. 2 has stated that she happened to be a well educated lady having obtained a degree of BDS, she is now a dentist. According to the complaint she was married with one Chandan Kumar on 15.07.2013 in accordance with the Hindu Rights and Customs.

3. The allegation in the complaint petition is that after she went to her Sasural, right from the next day itself she was being taunted for the dowry. It is alleged that when she went with her husband to Kishanganj, her husband raised objections on the



telephone calls coming to her from her friends and broke the SIM. He also stopped her speaking to the parents and other relatives and asked her to stop her internship.

It is further alleged that in the third week of August, 2013 she came back to Patna with her husband where all the three Nanads mentally tortured her. The Opposite Party No. 2 was not being allowed to talk to her parents and on her weeping she was being called 'Pagal' and when she was not feeling well she was called patient of low BP.

4. It is further alleged that during this period she had become pregnant also, she was advised bed-rest, she was requesting to allow her to go her Maikie but she was kept in her Sasural where because of the work being done by her, she suffered from miscarriage.

5. It is alleged that she was being threatened and blackmailing emotionally as her husband told that father abandoned her for ever. It is alleged that the husband and his family members



started demanding dowry of Rs. 10 lakhs and stated that her husband is a doctor and can get much more dowry from others but father of the complainant cheated him and gave nothing at the time of marriage and also threatened her.

6. It is further alleged that she was asked to pay the amount anyhow otherwise she would not be allowed to stay in their house. On denial of fulfillment of the demand of dowry, the husband and his other family members started committing atrocities and torture against her in various ways. She was abused in filthy and vulgar language. They compelled her to work day and night with hungry stomach in the house. It is stated that the physical condition of the complainant deteriorated day by day but anyhow the complainant informed her father in the month of March, 2014, father came to her house and she was brought to Katihar. The complainant was medically treated with the advice of the doctor and the doctors allegedly told that she was suffering from mental depression.

7. The Opposite Party No. 2 has further



alleged that in the month of April, 2014 second pregnancy was also confirmed. Seeing the previous failure of the pregnancy due to ill-treatment meted out by the in-laws, the parents of the complainant decided to take proper care and guidance to the complainant. She delivered a baby child on 24th October, 2014 but during this period also the husband and in-laws did not express any concern about the complainant. No one visited to the complainant to know her position. The complainant alleged that she tried again and again to contact them on phone and to inform them about the birth of the child but the mother-in-law always insisted her to have a sex determination test.

8. In January, 2015 on the day of Saraswati Puja the complainant allegedly went to her matrimonial home at Khagaria with her newly born child but her husband and mother-in-law welcome her in abusive language and she had to face her ill-treatment. Again the demand of dowry was being made. Thereafter, it is further alleged that in the month of April, 2015, father and sister of the



complainant came to visit the complainant with new dress purchased for her. It is alleged that the mother-in-law of the complainant is so claver that she stitched the old cloth of the complainant before arrival of the father and sister. On being asked about the bad health of the complainant by the father of the complainant, the mother-in-law became angry and threatened the complainant not to inform anything about her to her father and sister.

9. It is further alleged that the complainant called her mother for visiting a doctor. This infuriated the sister-in-law namely, Rinnu Kumari and Akriti. Later joined by her husband, father-in-law and Madhu Kumari too jointly accused and abused the complainant in vulgar, indecent and filthy language. They called the complainant as a prostitute and other similar words. They also abused the family members of the complainant and when she tried to shield herself saying not to abuse her parents and sisters, they collectively manhandled and assaulted her too.

10. It is further alleged that as the complainant was suffering from bad health and due



to the ill-treatment of the husband and in-laws, she was continuing vomiting since morning and feeling very weak. The husband of the complainant physically assaulted her with the help of sister-in-law Rinnu Kumari, who closed her mouth, Madhu and Akriti holding her waist and legs and father-in-law holding her hands. The complainant became helpless and could not free herself and her husband continued beating her mercilessly.

11. He allegedly broke her phone smashing it hard to the ground breaking in two pieces. They separated her from her crying child for the whole day. They threatened her not to disclose this incident to anyone otherwise she would have to face dire consequences and harm to her family. The complainant claims that due to fear she kept mum and did not disclose the incident to anyone and she was scared, trembling and filled with tears. On 26th August, 2015, when her husband and sister-in-law had gone outside, seeing the opportunity, the opposite party no. 2 allegedly gave a miss-call to her mother. She called back and then she narrated the



entire incident to her. She was brought to Khagaria and her father came there and requested them to take Bidagiri of the complainant to take her to Katihar, but they repeated their demand of dowry of Rs. 10 lakhs to her father too. It is then alleged that the husband and the complainant and her father came to Katihar. The husband was welcomed with grand fanfare but he repeated his demand of dowry of Rs. 10 lakhs and told that until and unless his demand of dory was not fulfilled, he would not take the complainant to back to his house and he left for Khagaria.

12. Learned counsel for the petitioners submits that the complainant has herself made a statement in the complaint petition that she had earlier also filed a complaint bearing C.A. No. 2498/2015 on 07.09.2015 but because the case record is missing from the court of learned S.D.J.M., Katihar since long and it cannot be found even after the best efforts, so there was a need to file another case in this connection.

13. It is submitted that in course of her solemn affirmation, in answer to a court's query she



has stated that since 30.08.2015, she is residing with her parents. She has further stated that her two Nanads are married. She has admitted that Minnu Devi (lives in Pune), whereas Rinnu (petitioner no. 3) lives in Patna and two others are unmarried. In her statement before the learned CJM, she has made a totally vague, general and omnibus kind of allegations against these petitioners. The enquiry witnesses who are the parents of the opposite party no. 2 have not at all uttered a single word against these petitioners. No injury report even *prima facie* indicating any sign of assault has been produced in course of enquiry.

14. Learned counsel submits that the Opposite Party No. 2 abandoned her first complaint without taking any efforts to reconstruct the records, and therefore according to the petitioners the present complaint is only an improved version wherein the entire family members have been falsely implicated and even the married and unmarried Nanads like the present petitioners have been made accused.

15. It is submitted that even in her reply to the present petition, she has not brought on record



the copy of the complaint petition which was filed earlier in the court of learned S.D.J.M. It is submitted that the complaint petition was filed by the Opposite Party No. 2, and therefore she is in possession of a copy of the complaint filed before the court, still if she is not producing the same with her reply and is not making a statement in her reply that these petitioners were also made accused in the earlier complaint, an adverse inference should be drawn.

16. Learned counsel submits that the mother-in-law of the Opposite Party No. 2 is a cancer patient and has undergone treatment in Tata Memorial Hospital, Mumbai, in the year 2014. She is also suffering from other ailments including high blood pressure and Thyroid. The father-in-law of Opposite Party No. 2 is also suffering from various ailments including spinal problems, high blood-pressure, diabetes and Neuro problems.

17. The husband of Opposite Party No. 2 had filed a case under Section 9 of the Hindu Marriage Act for restitution of conjugal rights being Matrimonial Case No. 847/2016 before the learned



Principal Judge, Family Court, Patna on 04.08.2016 showing his willingness to lead a normal matrimonial life with the Opposite Party No. 2. He was not aware of any complaint petition filed by Opposite Party No. 2 against them.

18. After the notice was issued in the Matrimonial Case in November, 2016, the Opposite Party No. 2 filed a maintenance case against her husband and subsequently in the month of January, 2016 the present complaint has been filed.

19. Learned counsel submits that so far as these petitioners are concerned, they are sister-in-laws of Opposite Party No. 2 and have got no connection with the personal life of Opposite Party No. 2 and their brother Dr. Chandan Kumar. Petitioner no. 3 was married way back in the year 2007 and she was pregnant at the relevant time. She was under treatment with Dr. Sushma Pandey, and it is highly improbable and impossible that she would have any interference in the matrimonial life of Opposite Party No. 2. It is submitted that even petitioner Madhu Kumari (petitioner no. 2) was



married in the month of November, 2016 and is staying at Bhagalpur. She was working with Agogue Technologies Pvt. Ltd., Pune at Maharashtra from June, 2013, where she had worked till 28.10.2015. The petitioner Akriti (petitioner no. 1) was also earlier working with the same company for the said period and presently she is posted at Airport Authority of India, Guwahati since April, 2016 and talks of marriage of her is also in advance stage. It is submitted that the family of Opposite Party No. 2 have tried to disturb the marriage proposals of petitioners Madhu Kumari And Akriti Singh.

20. Annexure-2 and 2/1 have been brought on record by the petitioners to demonstrate that the petitioner no.1, Akriti Singh and petitioner no. 2 Madhu Kumari bearing employee code No. 289 and 276 respectively were employed with Agogue Technologies Pvt. Ltd, Pune from 3rd June, 2013. The petitioner no. 1 resigned and was relieved on closing hours on 27th November, 2015. She was working as a Software Engineer. Similarly petitioner no. 2 Madhu Kumari had also been relieved from the said date.



21. Learned counsel submits that in fact it is a case of temperamental difference between the husband and wife both of whom are well educated in their lives and are doctors. It is highly improbable and impossible that these petitioners may have any say in their personal life.

22. On the other hand, learned counsel representing the Opposite Party No. 2 submits that the allegations are there against these petitioners as well. They have committed mental torture and have also assisted their brother in demand of dowry and the alleged assault, therefore the order taking cognizance against these petitioners need not be interfered with.

23. Having heard learned counsel for the parties and on perusal of the records, this court finds that even though the Opposite Party No. 2 claims that she has earlier filed a complaint petitioner in the court of learned S.D.J.M., in the year 2015 and she was informed that the records of the said complaint case is missing from the court of learned S.D.J.M., Katihar, it was incumbent upon her to place on



record her earliest version disclosed in the complaint petition no. 2498/2015. If this has not been disclosed by the Opposite Party No. 2 by placing the same on record, an adverse inference may be drawn against her to the extent that the claim of these petitioners that they have been falsely implicated in this case filed in the year 2017 has got much force. Keeping this aspect in mind, this court would consider further submission of the parties.

24. Be that as it may, a perusal of the complaint petition shows that in the very beginning the Opposite Party No. 2 claims that she had gone with her husband to Kishanganj where her husband had allegedly objected to her telephone calls coming from her friends and had asked her not to talk with her parents and other relatives. There was no role of these petitioners and nothing has been alleged against these petitioners at this stage.

25. It is alleged that in the 3rd week of August, 2013 when she came back to Patna with her husband, these petitioners had committed mental torture. This is a most vague and general kind of



allegations without there being any substance and apparently this court finds that these petitioners have been framed in the case being the three sisters of the husband of Opposite Party No. 2. There is no specific allegations that these petitioners had ever indulged in any demand of dowry and this view of the court is strengthen on going through the deposition of the parents of Opposite Party No. 2 who have in course of their deposition not uttered a single word against these petitioners. The whole allegation seems to be against the husband of Opposite Party No. 2. So far as allegations as to participation of these petitioners in the alleged assault which is attributed to the husband is concerned this court finds that there is no *prima facie* material to support that these petitioners played any role in the alleged assault, the allegation of beating is only against the husband.

26. The petitioner no. 1 & 2 are Software Engineers and at this stage it is an admitted position that petitioner no. 2 & 3 are the married sisters of the husband of Opposite Party No. 2. The petitioner no. 1 is an unmarried sister and her talks of marriage is



also going on.

27. In the given allegations as contained in the complaint petition and the deposition of the complainant and her witnesses, this court finds that it is one of those cases where the petitioners are being prosecuted on completely vague and bald allegation and because they are the sisters of the husband so they have been arrayed as an accused in order to implicate the whole family of the husband of Opposite Party No. 2. The allegations in so far as those are against these petitioners to this court they seems to be highly improbable. In the case of **Pritam Ashok Salaphule Vs. State of Maharashtra** reported in **(2015) 11 SCC 769**, the Hon'ble Supreme Court has held that when the allegations in complaint are vague regarding the family members, the criminal proceeding may be quashed.

28. This court is of the considered opinion that so far as these petitioners are concerned, the order taking cognizance and issuance of summons against them is bad and in order to save these petitioners from harassment, it would be in the



interest of justice to quash the order taking cognizance and issuance of summons.

29. Ordered accordingly.

30. Order taking cognizance and issuance of summons in so far as it relates to these petitioners is hereby quashed, and this application is allowed.

(Rajeev Ranjan Prasad, J)

Rajeev/-

AFR/NAFR	
CAV DATE	
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