

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.3821 of 2015

Arising Out of PS.Case No. -324 Year- 2013 Thana -PHULWARI District- PATNA

- =====
1. Deepak Tiwary (Husband), s/o Kameshwar Tiwary,
 2. Raj Kishore Tiwary @ Lal Babu (Vaisur), s/o Kameshwar Tiwary,
 3. Kameshwar Tiwary (Father-in-Law), s/o late Srikant Tiwary,
 4. Geeta Devi, w/o Kameshwar Tiwary, all resident of Mohalla- Aadarsh Nagar,
Road No.2, Phulwarisharif, P.S. - Phulwarisharif, District - Patna.
- Petitioner/s

Versus

1. The State of Bihar,
 2. Punam Kumari @ Rupa Kumari, D/o Sri Mahesh Ojha, resident of Mohalla -
Ramkrishna Nagar, P.S. - Ramkrishna Nagar, District - Patna.
- Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Nawal Kishore Prasad, Advocate
For the Opposite Party/s : Mr. Jharkhandi Upadhyay, APP

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CORAM: HONOURABLE MR. JUSTICE SANJAY PRIYA

ORAL JUDGMENT

Date: 10-07-2018

This application under Section 482 of the Code of Criminal Procedure has been filed for quashing the order dated 20.11.2013 passed by the Judicial Magistrate, Patna, in Phulwarisharif P.S. Case No.324 of 2013 by which the learned Magistrate has taken cognizance against the Petitioners for the offence under Section(s) 498A/34 Indian Penal Code and Section 3/4 of Dowry Prohibition Act.

Heard counsel for the Petitioners and the State.

Counsel for the Petitioners submits that there is no allegation of any specific overt act against Petitioner Nos.2, 3, and 4,



who are brother-in-law (Bhaisur), father-in-law and mother-in-law of the Informant. Counsel for the petitioners has relied on the decision of the Supreme Court in the case of ***Geeta Mehrotra and anr. vs. State of UP and anr.*** reported in ***2013 (1) PLJR 10.***

It has been submitted that there is growing tendency to implicate all the family members in matrimonial dispute.

Notice was issued to the Opposite Party No.2, which has been validly served, but none has appeared on behalf of Opposite Party No.2.

From the allegation in the written report, this Court finds that there is specific allegation of overt act against the husband, Deepak Tiwari, (Petitioner No.1).

A supplementary affidavit has been filed on behalf of the Petitioners, wherein, it has been mentioned that Informant has filed a case for maintenance against the husband which is pending before Addl. Principal Judge, Family Court, Patna, vide Matrimonial Case No.1761 (M) of 2014.

In the circumstances, this court is not inclined to interfere with the impugned order with regard to Petitioner No.1, who is husband of the Informant.

So far as Petitioner Nos.2, 3 and 4 are concerned, they are family members of husband of the informant. There is no



allegation of any specific overt act against them.

In view of such, impugned order dated 20.11.2013 passed by the Judicial Magistrate, Patna, in Phulwarisharif P.S. Case No.324 of 2013 along with entire criminal proceeding with regard to Petitioner Nos.2, 3 and 4, is hereby quashed.

This application is, accordingly, **allowed in part.**

The Court below will proceed with the case against Petitioner No.1 (husband) in accordance with law.

(Sanjay Priya, J)

J.Alam/-

AFR/NAFR	NAFR
CAV DATE	N/A
Uploading Date	16-07-2018
Transmission Date	16-07-2018

