

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.12352 of 2017

Arising Out of PS.Case No. -283 Year- 2016 Thana -MAHILA P.S. District- BHOJPUR

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1. Prabhavati Devi (mother-in-law), wife of Braj Kishore Sharma @ Brij Kishore Sharma.
 2. Brij Kishor Sharma @ Braj Kishore Sharma (Father -in-law), Son of Late Ram Sakal Sharma.
 3. Rinki Devi (married nanad), Wife of Pramod Singh.
 4. Ritesh Kumar Sharma @ Bablu Sharma (Dewar), Son of Braj Kishore Sharma.
 5. Rocky Sharma @ Rakesh Sharma (Dewar),
- All are resident of Village- Karbasin, P.S.- Sahar, District- Bhojpur.
6. Pramod Singh (Nanad's husband), Son of Sukha Nandan Singh, Resident of Village- Kothiar, District- Bhojpur.

.... Petitioners

Versus

1. The State of Bihar.
2. Avantika Ray Sharma @ Puja Daughter of Vidya Prakash Ray, Resident of Village- Vishnu Nagar, P.S. Nawada, District- Bhojpur.

.... Opposite Parties

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Appearance :

For the Petitioner/s : Mr. Shiv Prasad Gupta, Advocate

For the Opposite Party No.2 : None

For the State : Mr. Jharkhandi Upadhyay, APP

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CORAM: HONOURABLE MR. JUSTICE ASHWANI KUMAR SINGH

ORAL JUDGMENT

Date: 26-03-2018

This application under Section 482 of the Code of Criminal Procedure has been filed by the petitioners for quashing the order dated 16.11.2016 passed by the learned Sub-divisional Judicial



Magistrate, Ara in Ara Mahila P.S. Case No.283 of 2016 by which cognizance has been taken for the offences inter alia under Sections 341, 323, 498A of the Indian Penal Code and Sections 3 and 4 of the Dowry Prohibition Act and the petitioners have been summoned to face trial.

2. It is submitted by the learned counsel for the petitioners that the petitioners are in-laws and there is omnibus and general allegation made in the first information report against them. He submitted that the genesis of institution of the first information report is matrimonial discord and incompatibility between the informant and her husband. The implication of the relatives of the husband is just in order to coerce the blackmail. He submitted that in an identical circumstance, the Supreme court in the matter of **Geeta Mehrotra & Anr. vs. State of U.P. & Anr. [(2013) 1 PLJR 11(SC)]** quashed the proceeding instituted against them. In the said case, the Supreme Court clearly held that mere casual reference of name of family members in a matrimonial dispute without allegation of their active involvement in the offence is not sufficient for taking cognizance.

3. On the other hand, Mr. Jharkhandi Upadhyay, learned Additional Public Prosecutor contested the matter. He submitted that the case of the petitioners is quite different from the



case of **Geeta Mehrotra (supra)** on which the petitioners have placed reliance. He contended that in the first information report there is clear allegation against the petitioners that they repeatedly subjected the victim to cruelty for non-fulfilment of demand of dowry. According to him, the acts alleged to have been committed by the petitioners in the first information report would certainly attract ingredients of the offence under which cognizance has been taken.

4. I have heard learned counsel for the parties and perused the record.

5. In the first information report instituted on the basis of the written report of the victim Avantika Ray Sharma @ Puja, it is alleged that she was married on 26.05.2013 to one Vikash Sharma according to Hindu Rites and Customs. At the time of marriage itself, her husband, father-in-law, brother-in-law (nandoi) and Dewar raised demand for freeze, washing machine and colour T.V. They stated that till the demand is not fulfilled, her *bidai* would not be made. Despite persuasion by the relatives and family members of the informant, they did not take the informant to her matrimonial home after the marriage. Thereafter, her father along with others went to her matrimonial home and after much persuasion she was taken to her matrimonial home on 14.12.2015. However,



from the date she reached to her husband's home, the accused persons started subjecting her to cruelty for non-fulfilment of the aforesaid articles. They threatened her that she would not be allowed to live in peace unless the demand is fulfilled. She informed her parents regarding the cruelty being meted out upon her. However, when her father and other relatives came to her matrimonial home and tried to persuade them to allow her to live peacefully, the act of cruelty aggravated. For several dates, she was not being provided with food. The accused persons abused and assaulted her and on several occasions she was being locked inside the room. She has further alleged that one day her mother-in-law tried to strangulate her and on hue and cry raised by her, the local residents came and save her live thereafter, her father was informed about the said incident. When her father came, the accused persons again abused and assaulted her in his presence. When her father intervened, they also abused him, thereafter, he took her to his home.

6. The Investigating Officer of the case conducted investigation into the offence alleged and recorded statements of witnesses under Section 161(3) of the Code of Criminal Procedure. The allegations made in the first information report were found true during investigation as a result of which, the police submitted report under Section 173(2) of the Code of Criminal Procedure pursuant to



which, the learned Magistrate found a prima facie case to be made out against the petitioners vide impugned order dated 16.11.2016.

7. The facts of the instant case are distinguishable from the facts of the case of **Geeta Mehrotra (supra)** in which the Supreme Court has observed that mere casual reference of the name of the family members of the matrimonial dispute without allegation of their active involvement in the offence is not sufficient for taking cognizance of the offence.

8. Here, in the present case, there is not only a casual reference of name rather the victim has vividly described the manner in which she was being subjected to cruelty in her matrimonial home by the accused persons including the petitioners.

9. In that view of the matter, I see no illegality in the order impugned. The application being devoid of any merit is dismissed.

(Ashwani Kumar Singh, J.)

Sanjeet/-

AFR/NAFR	NAFR
CAV DATE	NA
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