

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.3201 of 2016

Arising Out of PS. Case No.-18 Year-2013 Thana- MAHILA P.S. District- Samastipur

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1. Amna Khatoon Wife of Late Izharul Haque,
 2. Sagufta @ Juli D/o Mazhrul Haque,
 3. Mazhrul Haque, Son of Late Izharul Haque,
 4. Sabnam Parveen, Wife of Naushad all are resident of village Ram Bahdrapur, P.S. Kalyanpur, District - Samastipur.

... .. Petitioner/s

Versus

1. The State of Bihar.
2. Razia Shahin Nishra, D/o Md. Nurul Hoda, Wife of Md. Jawaaid, R/o Village - Jitwarpur Chhath, P.S. + District - Samastipur.

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Md. Helal Ahmad
For the Opposite Party/s : Mr. Ram Anurag Singh (App)

CORAM: HONOURABLE MR. JUSTICE SANJAY PRIYA
ORAL JUDGMENT

Date : 19-09-2018

Heard learned counsel for the petitioners and the State.

This petition has been filed for quashing the order dated 7.5.2015 passed by learned ACJM 1st Samastipur in Mahila P.S. Case No. 18/ 2013 by which the learned Magistrate has after holding enquiry, found *prima facie* case for the offence under Sections 498A , 323, 504/34 IPC against petitioners..

In the written report, it is alleged that informant was married with co accused Javed. She was tortured in her *sasural* for demand of dowry. It is further alleged that accused persons always gave threat to perform second marriage of her husband. It is further alleged that *mai ke* people of the informant gave Rs. 25,000/- cash to the mother-in-law, namely, Amna Khatoon.



Thereafter, the accused persons remained quite for few days. Thereafter, the mother-in-law with her husband again started torturing the informant physically as well as mentally. It is further alleged that on 22.8.13 her husband along with her mother-in-law, namely, Amna Khatoon, snatched all her belongings and ousted from the house and did not allow her to keep children.

Petitioner nos. 2, 3 and 4 are described in the written report to be the *Gotani*, *Bhaisur* and *Nanad*. The police after investigation submitted charge sheet against all the accused persons and cognizance has been taken against all the accused persons. This Court, from perusal of the allegation in the complaint finds that there is specific allegation in the written report against the husband and mother-in-law.

This Court after looking into the allegation in the written report does not find any specific overt act against petitioner nos. 2,3 and 4, who are *Gotani*, *Bhaisur* and *Nanand* of the informant. Therefore, this court is of the view that continuance of criminal proceeding against petitioner nos. 2, 3 and 4 will be an abuse of the process of law and harassment to them.

Therefore, the impugned order dated 7.5.2015 passed by learned ACJM 1st Samastipur in Mahila P.S. case no. 18/ 2013 along with entire criminal prosecution with regard to petitioner nos. 2,3 and 4 is hereby quashed.



So far petitioner no.1 is concerned , she is mother-in-law of the of the informant. There is specific allegation of overt act in the written report against petitioner no.1.

This Court does not find any illegality in the impugned order dated 7.5.2015 passed by learned ACJM 1st Samastipur in Mahila P.S. Case No. 18/ 2013 with regard to petitioner no.1, Accordingly, this petition with regard to petitioner no.1 is dismissed.

The court below will proceed against petitioner no.1 in accordance with law.

The petitioner No.1 is given liberty to raise all the points, as raised in the present application, at the time of framing of charge, which shall be considered and disposed off by the learned court below in accordance with law without being prejudiced by this order.

This Cr. Misc. petition is allowed in part.

(Sanjay Priya, J)

shyambihari/-

AFR/NAFR	NAFR
CAV DATE	N/A
Uploading Date	25.9.2018
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