

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.14365 of 2015

Arising Out of PS.Case No. -1043 Year- 2008 Thana -SAHARSA COMPLAINT CASE District-
SAHARSA

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1. Md. Ayub, S/o Md. Yunus
2. Md. Irshad, S/o Md. Yunus
3. Bibi Noorjahan @ Noorjahan, D/o Md. Yunus
4. Munni, D/o Md. Yunus
5. Md. Yunus, S/o Late Nijam @ Late Md. Nijamuddin
6. Mehrunisha @ Mehrulnisha @ Mehrunisha W/o Md. Yunus
All residents of Ward No. 8, Gandhi Path, Saharsa, P.S. - Saharsa, District -
Saharsa.

.... Petitioner/s

Versus

1. The State of Bihar.
2. Shahnaz Praveen, W/o Md. Yusuf, D/o Abdul Hakim, resident of Ward No. 21,
Gandhi Path, Saharsa, P.S. - Saharsa, District - Saharsa.

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Krishna Prasad Singh, Sr. Advocate.
Mrs. Meena Singh, Advocate.
For the Complainant : Md. Sufiyan, Advocate.
Thakur Brajesh Singh, Advocate.
For the State : Smt. Pronati Singh, A.P.P.

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CORAM: HONOURABLE MR. JUSTICE SANJAY PRIYA

ORAL JUDGMENT

Date: 27-07-2018

1. This application under Section 482 of the Code of Criminal Procedure has been filed for quashing the order dated 21.02.2015 passed by the learned Sub Divisional Judicial Magistrate, Saharsa, in Complaint Case No. 1043 of 2008 by which the learned Magistrate has rejected the application filed under Section 245 Cr. P.C. by the petitioners.

2. Heard learned counsel for the petitioners, learned counsel for the State and learned counsel for the complainant.



3. Learned counsel for the petitioners has submitted that petitioners are parents-in-law, brother-in-law and sister-in-law of the complainant. There is general and omnibus allegation against the petitioners.

4. The complainant has filed complaint petition making allegation that she was married with the accused Md. Yusuf on 15.4.2005 according to Muslim rights and customs. She was tortured in her *sasural* for demand of Colour T.V., Refrigerator, Motorcycle and cash of Rs.50,000/-. She was ousted by the accused persons from the matrimonial home for non-fulfillment of demand of dowry.

5. Learned counsel for the petitioners has submitted that statement of four witnesses have been recorded in the court below before charge. None of the witnesses have levelled any specific allegation of overt act against the petitioners. The petitioners have filed Xerox copy of the statement of all the four witnesses recorded before charge by filing supplementary affidavit.

6. From perusal of statement of aforesaid four witnesses recorded before charge it appears that general and omnibus allegation has been levelled against the petitioners.

7. Therefore, this Court does not find any substantive materials during investigation against the petitioners for the offence under Section 498A of the Indian Penal Code.



8. It has been held by the Hon'ble Supreme Court in the case reported *in PLJR 2013 (1) SCC Page 10 (Geeta Mehrotra Vrs. State of U.P.)* that proceeding against the in-laws on general and omnibus allegation has to be quashed as it has become very common to involve entire family members in a case under Section 498-A of the Indian Penal Code. Therefore, continuation of criminal proceeding against these petitioners is mere harassment to them and abuse of process of law.

9. Therefore, the impugned order dated 21.02.2015 passed by the learned Sub Divisional Judicial Magistrate, Saharsa, in Complaint Case No. 1043 of 2008 along with the entire criminal proceeding against the petitioners is hereby quashed.

10. This Criminal Miscellaneous application is accordingly allowed.

11. This order will however not prejudice in any manner the case of the husband which is pending in the court below. The court below will proceed in the case with regard to the husband in accordance with law.

(Sanjay Priya, J)

S.Ali/-

AFR/NAFR	AFR
CAV DATE	N.A.
Uploading Date	31/07/2017
Transmission Date	31/07/2017

