

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.31277 of 2014

Arising Out of PS.Case No. -1152 Year- 2012 Thana -SARAN COMPLAINT CASE District- SARAN

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1. Ram Vyas Pandey, son of late Indradeo Pandey,
 2. Indu Devi @ Indu Pandey, w/o Ram Vyas Pandey,
 3. Rajiv Kumar Pandey, son of Ram Vyas Pandey, all the above are residents of Mohalla- Darku Nagar, in front of Adarsh Vidya Mandir, PO and P.S.-Chas, Distt.- Bokaro, Jharkhand

.... Petitioner/s

Versus

1. The State of Bihar,
2. Shashi Bhushan Pandey, son of Ram Naresh Pandey, R/O Village- Sitalpurkothi, PO- Sitalpur, PS- Bariyarpur, Distt. Saran,
3. Nidhi Kumari, d/o Shashi Bhushan Pandey, R/O Village- Sitalpurkothi, PO Sitalpur, PS Bariyarpur, Distt. Saran

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Manoj Kumar Manoj, Advocate
For the Opposite Party No.1: APP
For the Opposite Party No.3: Mr. Rajendra Kishore Prasad, Advocate
Mr. Madhukar Pandey, Advocate

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CORAM: HONOURABLE MR. JUSTICE SANJAY PRIYA

ORAL JUDGMENT

Date: 19-01-2018

1. This application under Section 482 of the Code of Criminal Procedure has been filed for quashing the order dated 17.01.2013 passed by the Sub-Divisional Judicial Magistrate, Chapra, Saran, in Complaint Case No.1152 of 2012/ Trial No.2356 of 2013, by which learned Magistrate after holding enquiry has found *prima facie* case against the petitioners for the offence under Section(s) 498-A, 307, 379 Indian Penal Code and Section 3 of the Dowry Prohibition Act.

2. This matter was earlier sent to Mediation Centre and as per report of the Mediator, daughter of the Complainant



agreed to go with the husband and she had also gone with her husband and lived with him for about eight months, but she again left the house of her husband on the plea that she has been tortured in her *Sasural* by the husband and his family members. It is mentioned in the order dated 01.12.2017 that wife had gone on 30.03.2015 from the Court itself to live with husband after mediation and thereafter lived together till 22.11.2015. Thereafter, wife has returned to her parent's house along with minor daughter.

3. Since matter was once settled between the parties in the Mediation Centre, during hearing of this application, this Court thought it proper to attempt for mediation between the parties once again and, accordingly, by order dated 01.12.2017, both parties were directed to appear in Chambers on 08.01.2018 for the purpose of mediation. On that date, both parties appeared in Chambers. Petitioner Nos.1 and 2 i.e. father and mother of husband have also appeared in Chambers. From mere appearance, it appeared that petitioner nos.1 and 2 i.e. father and mother of husband, are old persons. Petitioner no.1 is also handicapped. He is facing difficulty in walking. Husband as well as their parents have stated in Chambers that they are always ready to keep Opposite Party No.2 with all dignity along with minor daughter. They have also taken steps for admission of minor daughter of the Opposite Party No.3, but Opposite Party No.3 does not want to live with the



petitioners. Wife-Opposite Party No.3 was also present in Chambers. She has stated that she was tortured when she lived with the husband and his family members. Now, she has no confidence to live with him.

4. Petitioners have also offered for one time settlement upon which wife-Opposite Party No.3 made demand of Rs.20-25 lac as one time settlement for herself and her minor daughter to which the petitioners showed their inability. Since mediation did not succeed, matter has been placed for final hearing.

5. Heard counsel for the petitioners and the learned APP for the State. Also heard counsel for the Opposite Party No.3.

6. Counsel for the petitioners has submitted that there is general and omnibus allegation against all the petitioners. The petitioners are always willing to keep the wife and minor daughter, but the wife does not want to live with the husband. Counsel for the petitioners has further submitted that petitioner nos.1 and 2 are parents of petitioner no.3, who are old persons, and unable to commit any torture with the victim. They are leading retired life and suffering from various old age ailments. It has further been submitted that petitioner no.1 is handicapped also.

7. Counsel for the Opposite Party No.3 submits that there is order of the Court below to make payment of rupees three thousand per month as maintenance to the Complainant by order



dated 28.06.2013 passed by the learned Court below with effect from 31.07.2013, but the aforesaid amount has not been paid by the petitioners.

8. Supplementary Counter Affidavit has been filed on behalf of the Opposite Party No.3 giving details of amount of Rs.30,000/-, which has been paid as maintenance by petitioner no.3 to the Opposite Party No.3, in the light of direction of the Court below till 27.11.2017.

9. The petitioners have given reply to the Counter Affidavit filed on behalf of Opposite Party No.3, wherein, details of the payment made to the Opposite Party No.3 by the petitioners have been given in para 5. Statement has been made in para 5 that petitioner no.3 is ready and willing to pay the maintenance amount regularly in future.

10. From perusal of the Complaint Petition, this Court finds that there is general and omnibus allegation against petitioner nos.1 and 2, who are parents of petitioner no.3 and parents-in-law of Opposite Party No.3-victim girl. The Court below by the impugned order has found *prima facie* case against petitioner nos.1 and 2 along with petitioner no.3 for the offence under Section(s) 498-A, 307, 379 Indian Penal Code and Section 3 of the Dowry Prohibition Act.

11. There is consistent view of the Hon'ble Supreme



Court that there is a tendency to involve entire family members in the cases filed under Section 498-A Indian Penal Code. Reference of one of such case is *Geeta Mehrotra and anr. vs. State of UP and anr.* reported in *2013 (1) PLJR 10*, wherein, it has been held the Courts are expected to adopt a cautious approach in matters of quashing specially in cases of matrimonial dispute whether the FIR in fact discloses commission of an offence by the relatives of the principal accused or the FIR prima facie discloses a case of over-implication by involving the entire family of the accused at the instance of the Complainant, who is out to settle her scores arising out of the teething problem or skirmish of domestic bickering while settling down in her new matrimonial surrounding.

12. In the Complaint Petition, there is general and omnibus allegation against parents-in-law. Therefore, this Court is of the view that continuance of the criminal proceeding against petitioner nos.1 and 2, who are old persons and parents-in-law of the Opposite Party No.3, will be mere harassment to them and abuse of process of Court.

13. Accordingly, impugned order dated 17.01.2013 passed by the Sub-Divisional Judicial Magistrate, Chapra, Saran, in Complaint Case No.1152 of 2012/ Trial No.2356 of 2013 along with entire criminal prosecution with respect to petitioner nos.1 and 2 is hereby quashed.



14. So far as petitioner no.3, who is husband of the Opposite Party No.3, is concerned, this Court does not find any illegality in the impugned order with respect to him.

15. The Court below will proceed in the case against petitioner no.3 in accordance with law.

16. The petitioners in para 5 of reply to Counter Affidavit filed on behalf of Opposite Party No.3 has stated that petitioner no.3 is ready and willing to pay amount of maintenance regularly. As such, petitioner no.3 is directed to make payment of dues of the maintenance amount to Opposite Party No.3, within a period of six months from the date of receipt of copy of this order in the Court below and he will continue to make payment of current amount of maintenance by 15th day of every month. In the event, petitioner no.3 fails to make payment of maintenance amount, as ordered above, the Court below will take appropriate action against petitioner no.3, in accordance with law, for making payment of the maintenance amount both current as well as arrears as ordered above.

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

(Sanjay Priya, J)

J.Alam/-

AFR/NAFR	NFR
CAV DATE	N/A
Uploading Date	30-01-2018
Transmission Date	30-01-2018

