

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.25663 of 2011

Arising Out of PS.Case No. -0 Year- null Thana -null District- BHOJPUR

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1. Uday Narain Rai, son of late Murat Rai,
 2. Chandra Bhushan Rai, son of Uday Narain Rai,
 3. Dhanwanti Devi, wife of Uday Narain Rai, all resident of village-Civil Lines Buxar, P.S.-Buxar Town, District-Buxar.

.... Petitioner/s

Versus

1. The State of Bihar &
2. Reena Devi, wife of Sri Surendra Rai, resident of village-Bal Bandh, P.S.-Charpokhari, District-Bhojpur.

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Digvijay Kumar Ojha, Advocate
For the Opposite Party/s : Mr. Dashrath Mehta, APP
Mr. Ranjeet Kumar, Advocate

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CORAM: HONOURABLE MR. JUSTICE SANJAY PRIYA

ORAL JUDGMENT

Date: 13-02-2018

1. This application under Section 482 of the Code of Criminal Procedure has been filed for quashing the order dated 23.05.2006 passed by the Sub-Divisional Judicial Magistrate, Ara, in Complaint Case No.201-C of 2006/Tr. No.1195 of 2010 by which the learned Magistrate after holding enquiry has found *prima facie* case against the petitioners and others for the offence under Section(s) 498-A Indian Penal Code and Section 4 of the Dowry Prohibition Act.

2. Counsel for the petitioners has submitted that petitioner nos.1 and 3 are father-in-law and mother-in-law and



petitioner no.2 is brother-in-law of the Complainant. There is general and omnibus allegation against these petitioners. They have no concern with the family affairs of the husband and wife.

3. Learned APP as well as counsel for the Opposite Party No.2 have appeared and submitted that there is no illegality in the impugned order.

4. The Complainant has alleged in the Complaint Petition that she was married with Shashi Bhushan Rai @ Niraj Kumar Rai in the year 2000. She went to her matrimonial house where she was tortured for demand of Maruti car and two lac rupee. She was, ultimately, ousted from the matrimonial house for non-fulfillment of aforesaid demand after being tortured by the husband and these petitioners.

5. The Court below by the impugned order has found *prima facie* case against these petitioners along with husband of the Complainant for the offence under Section(s) 498-A Indian Penal Code and Section 4 of the Dowry Prohibition Act.

6. From perusal of the entire complaint, this Court finds that there is only vague and omnibus allegation against them. It is known fact that other family members of husband have normally no concern with the affairs of the husband and wife. These petitioners are parents-in-law and brother-in-law of the Complainant. There is



tendency to involve entire family members in the cases filed under Section 498-A Indian Penal Code on account of personal grudge to cause harassment to them.

7. The Hon'ble Supreme Court in the case of *Geeta Mehrotra vs. State of UP* reported in (2012) 10 Supreme Court Cases 741, has taken all these facts into consideration and has held that large number of the family members had been included in First Information Report by casually mentioning their names and content did not disclose their active involvement, cognizance of matter against them would not be justified. Under such condition, cognizance would be abuse of judicial process.

8. This Court finds from the impugned order that the learned Court below merely on the basis of statement of witnesses recorded during enquiry in mechanical manner has found *prima facie* case against these petitioners along with husband, Shashi Bhushan Rai @ Niraj Kumar Rai, for the offence under Section(s) 498-A Indian Penal Code and Section 4 of the Dowry Prohibition Act.

9. Therefore, impugned order dated 23.05.2006 passed by the Sub-Divisional Judicial Magistrate, Ara, in Complaint Case No.201-C of 2006/Tr. No.1195 of 2010 along with entire criminal proceeding with regard to the petitioners is hereby quashed.

10. This application is, accordingly, allowed.



11. The Court below will proceed in the case with regard to another accused in accordance with law.

(Sanjay Priya, J)

J.Alam/-

AFR/NAFR	AFR
CAV DATE	N/A
Uploading Date	22-02-2018
Transmission Date	22-02-2018

