

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.12595 of 2015

Arising Out of PS.Case No. -228 Year- 2014 Thana -NALANDA COMPLAINT CASE District-
NALANDA (BIHARSHARIFF)

- =====
1. Chhote Chauhan Son of Late Pyare Chauhan
 2. Kunti Devi wife of Chhote Chauhan
 3. Nandlal Pandit Son of Late Bhuwan Pandit
 4. Shiv Balak Chauhan Son of Chhote Chauhan
 5. Mamta Devi D/o Chhote Chauhan and Wife of Sri Deepak Chauhan
 6. Balak Chauhan son of Chhote Chauhan All resident of village Bishambharpur,
P.S. Bikram, District - Patna

.... Petitioners

Versus

1. The State of Bihar
2. Vijay Prasad Son of Dulari Sharan Chauhan, resident of village - Sabalpur, P.S.
Chandi, Distt. Nalanda

.... Opposite Parties

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Appearance :

For the Petitioner	:	Mr. Bindeshwar Prasad Singh, Advocate
For the State	:	Dr. Kumar Uday Pratap, APP
For O.P. No.2	:	Mr. Mritunjay Kumar Nirala, Advocate

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CORAM: HONOURABLE MR. JUSTICE ARUN KUMAR

ORAL JUDGMENT

Date: 09-01-2018

Heard learned counsel for the petitioners, learned APP for the State as well as learned counsel appearing on behalf of opposite party no.2.

2. The petitioners seek quashing of the cognizance order dated 24.06.2014, passed by learned Judicial Magistrate, 1st Class, Hilsa in Complaint Case No.228C of 2014 thereby taking cognizance of the offence under Sections 380 and 417/34 of the Indian Penal Code.

3. The brief fact giving rise to the case is that on the occasion of *Tilak* ceremony of the younger son of the complainant, he



had invited all relatives including the accused persons and found in the wee hours at 4.30 A.M. early in the morning all these accused persons going away by auto-rickshaw keeping with them one attache and iron box in which jewellerys and cash were kept.

4. Learned counsel for the petitioners submits that petitioner no.5 Mamta Devi is the daughter-in-law of the complainant married with his elder son and after marriage the accused persons started torturing her for realizing further demand of dowry and on 10.03.2014 she was ousted from the matrimonial home. Thereafter on the next day, i.e., 11.03.2014 she filed a complaint case under Section 498A of the Indian Penal Code against her husband and other family members including the father-in-law, the present complainant and it is patently absurd that just after two days, in *Tilak* ceremony he invited all family members of daughter-in-law's parents. Moreover, the present case is lodged due to that reason because she had filed a case under Section 498A of the Indian Penal Code earlier.

5. Learned counsel for opposite party no.2-the complainant submits that the petitioners have committed theft.

6. Having considered the rival submissions and on perusal of the records, it is apparent that petitioner no.5, daughter-in-law of the present complainant had lodged a complaint case on 11.03.2014 under Section 498 of the Indian Penal Code after being ousted from



the matrimonial home on 10.03.2014 as alleged. In the said case the present complainant, the father-in-law, husband and others are accused and the present occurrence is said to be committed only after lapse of two days and all were invited, which appears patently absurd because after ouster of the daughter-in-law from the matrimonial home she and all family members attended the *Tilak* ceremony cannot be believed. In the backdrop of these facts the present complaint appears malicious, in order to wreck personal vengeance the complaint is filed, so the continuation of the present criminal proceeding would be abuse of the process of the Court. Hence, the entire criminal proceeding inclusive cognizance order dated 24.06.2014, passed in Complaint Case No.228C of 2014, pending in the court of learned Judicial Magistrate, 1st Class, Hilsa is hereby quashed.

7. The quashing application stands allowed.

(Arun Kumar, J.)

S.Kumar/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	18.01.2018
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