

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.15166 of 2014

Arising Out of PS. Case No.-1036 Year-2012 Thana- NAWADAH COMPLAINT CASE
District- Nawada

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1. Ram Bali Prasad @ Ram Bali Prasad Gupta Son of Late Babulal Sao
 2. Girja Devi Wife of Sri Ram Bali Prasad Gupta
 3. Bhobha Devi @ Anuradha Kumari @ Sweety wife of Pankaj Kumar D/o Sri Ram Bali Prasad Gupta All above Sl. No.-1 to 3 are R/o Station Road Jehanabad, P.S. and District-Jehanabad.

... .. Petitioner/s

Versus

1. The State Of Bihar
2. Pankaj Kumar Son Of Late Ramchandra Prasad Resident Of Fatehpur More, P.S.-Akwarpur, District-Nawada.

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Umesh Kumar
For the Opposite Party/s : Mr. Shailendra Kr. Singh(App)

CORAM: HONOURABLE MR. JUSTICE ARVIND SRIVASTAVA
C.A.V JUDGMENT

Date : 11-04-2018

Heard learned counsels for the parties.

Petitioners, by means of this application under section 482 of the Code of Criminal Procedure, have invoked the inherent jurisdiction of this Court with prayer to quash the order dated 03.01.2014 passed in Complaint Case No. 1036 of 2012 by the learned Judicial Magistrate, 1st Class, Nawada, whereby and whereunder cognizance has been taken against the petitioners and other accused persons for the offence under sections 147, 148, 380 and 323 of the Indian Penal Code.

Prosecution case, in short, is that oppoiste party no.



2 filed a Divorce Case No. 26 of 2010 under section 13 of the Hindu Marriage Act, against the present petitioner no. 3, and when summons were issued in that case against the present petitioners and other accused persons, they all, under conspiracy, entered into the house of the complainant and threatened them to compromise the case. On denial by the complainant, all the accused persons took their pistol out of their waist and started assaulting the complainant with fists, slaps and butt of the pistol. After assaulting that also looted the house of the complainant and took away ornaments, clothes etc. worth rupees two lakhs.

Learned counsel appearing for the petitioners submits that petitioners are father-in-law, mother-in-law and wife of the complainant respectively. It is submitted that petitioner no. 3 was married with the complainant on 26.02.2009 (Annexure-2), but since after marriage, she was tortured and assaulted by her husband and in-laws for meeting out the demand of rupees three lakhs as dowry. In this connection a Panchayati (Annexure-3) was also held in which complainant assured to keep the petitioner no. 3 separately with full honour and dignity. But after some time, accused persons again started torturing for meeting out the aforesaid demand. In



the year 2011, petitioner no. 3 came to know that her husband has filed Divorce Case No. 26 of 2010 (Annexure-4). In divorce petition, statement was made that marriage took place on 8.07.2008, which is false as marriage was solemnized on 26.02.2009. The petition for divorce was filed on absolutely false and frivolous grounds. It is further submitted that petitioner no. 3 filed a petition dated 30.08.2012 (Annexure-5) against her husband and her in-laws before the Superintendent of Police, Jehanabad, but the said case was not registered by the police. On non-institution of the case, petitioner no. 3 lodged Complaint Case No. 797 of 2012 (Annexure-6) in which cognizance has been taken under sections 498A I.P.C. and section 4 of the Dowry Prohibition Act. Learned counsel submit that the present case has been filed by the complainant alleging therein that his wife and other in-laws came to his house and threatened him to compromise the matter. They all took out pistol from their waist and assaulted the complainant with fists, slaps and butt of the pistol. Further, after assaulting the complainant, they also looted the house. It is quite improbable that a wife with his mother, father and other relatives will go to the house of the husband and commit such crime, as alleged. It is absolutely an imaginary story hatched up by the complainant



on basis of absolutely absurd and improbable allegations.

Learned counsels appearing for the opposite parties opposes the prayer of the petitioner.

Considering the materials available on record and the facts of the case, this Court finds substance in the submissions advanced on behalf of the petitioners. On the face of allegations, this Court is of the opinion that the present case is squarely covered by the decision of the Hon'ble Apex Court rendered in the case of *State of Haryana Vs. Bhajan Lal*, reported in *1992 Supp (1) SCC 335*. Relevant extract of paragraph 102 of the aforesaid judgment is quoted hereinbelow for ready reference :

“In the backdrop of the interpretation of the various relevant provisions of the Code under Chapter XIV and of the principles of law enunciated by this Court in a series of decisions relating to the exercise of the extraordinary power under Article 226 or the inherent powers under Section 482 of the Code which we have extracted and reproduced above, we give the following categories of cases by way of illustration wherein such power could be exercised either to prevent abuse of the process of any Court or otherwise to secure the ends of justice, though it may not be possible to lay down any precise, clearly defined and sufficiently channelised and inflexible



guidelines or rigid formulae and to give an exhaustive list of myriad kinds of cases wherein such power should be exercised :

(1) – (4)

(5) Where the allegations made in the FIR or complaint are so absurd and inherently improbable on the basis of which no prudent person can ever reach a just conclusion that there is sufficient ground for proceeding against the accused.”

In view of the discussions made above, this Court finds that order dated 03.01.2014 passed in Complaint Case No. 1036 of 2012 by the learned Judicial Magistrate, 1st Class, Nawada, whereby and whereunder cognizance has been taken against the petitioners and other accused persons for the offence under sections 147, 148, 380 and 323 of the Indian Penal Code, is not sustainable in the eye of law. The same is, hereby, quashed.

The application, accordingly, stands allowed.

(Arvind Srivastava, J)

mcv/-

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