

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.47252 of 2013

Arising Out of Complaint Case No. 267C Year- 2011(Tr.No. 3260/2011) Thana –Shahpur, District-
BHOJPUR

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1. Dinesh Choudhary Son Of Suraj Nath Choudhary Resident Of Village- Dulia, Police Station- Jagdishpur, District- Bhojpur.
2. Jugesh Choudhary Son Of Suraj Nath Choudhary Resident Of Village- Dulia, Police Station- Jagdishpur, District- Bhojpur.
3. Suraj Nath Choudhary @ Surya Nath Choudhary Son Of Late Ram Bachan Bhoudhary Resident Of Village- Dulia, Police Station- Jagdishpur, District- Bhojpur.
4. Arti Devi Wife Of Jugesh Choudhary Resident Of Village- Dulia, Police Station- Jagdishpur, District- Bhojpur.

.... Petitioner/s

Versus

1. The State Of Bihar
2. Brij Raj Choudhary S/o Raghubir Choudhary, R/o Vill Sohjoli, PS Shahpur, Distt. Bhojpur (Ara)

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Binod Kumar Singh
For the State : Ms. Asha Kumari, APP
For Opp. Party No. 2 : Mr. Gopal Govind Mishra

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CORAM: HONOURABLE THE CHIEF JUSTICE

ORAL JUDGMENT

Date: 22-03-2018

The applicants have filed this application under Section 482, CrPC and have challenged the order dated 14.01.2013 by which cognizance has been taken in Complaint Case No. 267C of 2011, Trial No. 3260 of 2011 for offences under Section 498(A) IPC read with Section 4 of the Dowry Prohibition Act. The complaint was filed by the respondent Shri Brij Raj Choudhary whose daughter is said to have been married to applicant no. 1 Dinesh Choudhary on 7.6.2005 and it is said that the accused persons were demanding motorcycle



and gold chain and due to non-fulfillment of the demand they were torturing his daughter.

It is said that before filing of the complaint, Brij Raj Choudhary had also filed an F.I.R. being Jagdishpur PS Case No. 30 of 2006 on 6.2.2006 for the same offences. Investigation into the same was conducted and the applicants were acquitted. It is submitted that now on the same set of allegations this complaint has been filed. The applicants submit that now taking cognizance of the matter is unsustainable and, therefore, the complaint is liable to be quashed.

Having heard learned counsel for the parties and on perusal of the record it is clear that the complaint case has been registered based on the statement of witnesses recorded and the allegation of harassment and demand of dowry which is said to have continued even after the first case was registered and concluded by way of a compromise petition and as the earlier prosecution was concluded based on the compromise and now after the compromise again harassment is being made, it is argued that this complaint is maintainable.

Having heard learned counsel for the parties, I am of the considered view that that looking into the nature of the complaint made and the evidence that has come on record it is not a fit case where merely on the ground that the earlier complaint case being



compromised the application can be allowed and the proceedings quashed. On the contrary, based on the prima facie material that has come on record, particularly the averments made in the complaint the case has been registered and at this stage by evaluating the defence and explanation of the applicants in a proceeding under section 482 Cr.PC, they cannot be exonerated on the principle laid down by the Supreme Court as made out in the case of *Minu Kumari v State of Bihar [(2006) 4 SCC 359]* and in the case of *HMT Watches Limited v M A Abida [(2015) 11 SC 776]* are not made out in the present case and, therefore, I am not inclined to interfere into the matter.

The applicants may raise all objections and defence as are available before the trial court and it would be for the trial court to consider all these aspects of the matter and discharge the applicants or exonerate them. At this stage in a proceeding under Section 482 CrPC it is not appropriate for this Court to interfere into the matter.

Accordingly, the application stands dismissed.

(Rajendra Menon, CJ)

mrl./-

AFR/NAFR	NAFR
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