

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.17669 of 2015

Arising Out of PS.Case No. -301 Year- 2012 Thana -KAHALGAON District- BHAGALPUR

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1. Naval Kishore Mandal, Son of Sambhu Prasad Mandal
 2. Dushyant Kumar, Son of Sambhu Prasad Mandal
 3. Sambhu Prasad Mandal, son of Bhola Prasad Mandal
 4. Bholiya Devi, wife of Sambhu Prasad Mandal
 5. Pappu Mandal @ Binod Mandal, son of Jagpati Mandal
- All are resident of village- BanSHIPur, P.S.- Kahalgaw, District- Bhagalpur
6. Parmanand Mandal
 7. Arun Mandal
- Both sons of Dorika Das, resident of village- Kajha, P.S.- Ekchari (Kahalgaw), District- Bhagalpur
8. Gopal Mandal, son of Narshimha Mandal, resident of village- Mamalkha, P.S.- Sabour, District- Bhagalpur

.... Petitioner/s

Versus

1. The State of Bihar
2. Reena Devi, daughter of Late Ashok Mandal, Resident of Saint Fransis Road, Phatehpur, Post - Phatehpur, P.S.- Industrial Area (Zero Mile), District- Bhagalpur

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Madanjeet Kumar, Advocate.
For the Opposite Party/s : Mr. J. Upadhyay, A.P.P.

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CORAM: HONOURABLE MR. JUSTICE SANJAY PRIYA

ORAL JUDGMENT

Date: 02-08-2018

1. This application under Section 482 of the Code of Criminal Procedure has been filed for quashing the order dated 22.7.2014 passed by the learned Sub Divisional Judicial Magistrate, Bhagalpur, in Kahalgaw P.S. Case No. 301 of 2012 by which the learned Magistrate took cognizance against the petitioners for the offences under Sections 498(A)/34 of the Indian Penal Code and Section 34 of Dowry Prohibition Act.



2. Heard learned counsel for the petitioners and learned counsel for the State.

3. The name of opposite party No. 2 is appearing in the cause list but none appeared on her behalf.

4. Learned counsel for the petitioners has submitted that petitioner No. 1 has deposited amount of Rs.2,00,000/- on 10.12.2014 in the Bank account of opposite party No. 2 in SBI Buxar Branch, as mentioned in the supplementary affidavit, in terms of the order passed by this Court during hearing of anticipatory bail application of the petitioner vide Cr. Misc. No. 42438 of 2013. It has further been submitted that there is general and omnibus allegation against the petitioners.

5. It is mentioned in the order dated 12.07.2018 that talk of compromise is going on between the parties, but it appears that no compromise has taken place up till now.

6. It is alleged that marriage of the informant was solemnized in the year 2009. After marriage, she went to her sasural. The husband and his family members made demand of Rs.5,00,000/- and Bolero vehicle. The informant could not fulfill the demand of dowry, then accused persons started committing physical and mental torture with the informant and ultimately she was ousted from her matrimonial house by the accused persons.



7. Counsel for the petitioners has submitted that Petitioner Nos. 2 to 9, are brother-in-law, Mamas of petitioner No. 1, parents-in-law, friend and husband of the informant. There is no allegation of any specific overt act against the petitioners. It has further been submitted that mere general and omnibus allegation has been levelled against the petitioners to rope them in the instant case for harassment.

8. This Court after looking into the allegation in the written report finds that mere general and omnibus allegation has been levelled against petitioner Nos. 2 to 8.

9. It has been held by the Hon'ble Supreme Court in the case reported *in PLJR 2013 (1) SCC Page 10 (Geeta Mehrotra Vrs. State of U.P.)* that it has become very common to involve entire family members in a case under Section 498-A of the Indian Penal Code. The continuation of proceeding against these petitioners is mere harassment to them and abuse of process of law.

10. In such circumstances, the impugned order dated 22.7.2014 passed by the learned Sub Divisional Judicial Magistrate, Bhagalpur, in Kahalgaon P.S. Case No. 301 of 2012 along with entire Criminal Proceeding against petitioner Nos. 2 to 8 is hereby quashed.

11. So far allegation against petitioner No. 1 who is husband of the informant is concerned, it appears that there is specific



allegation against him. Therefore, this Court is not inclined to interfere with the impugned order with regard to petitioner No. 1. The court below will proceed in the case against petitioner No. 1 in accordance with law.

12. This Criminal Miscellaneous application is accordingly allowed in part.

(Sanjay Priya, J)

S.Ali/-

AFR/NAFR	NAFR
CAV DATE	N.A.
Uploading Date	09/08/2018
Transmission Date	09/08/2018

