

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.51282 of 2014

Arising Out of PS.Case No. -780 Year- 2013 Thana -ROHTAS COMPLAINT CASE District-
SASARAM (ROHTAS)

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1. Md. Naushad @ Md. Naushad Itafarosh S/o Md. Islam Itafarosh
2. Munni Khatoon W/o Md. Islam Itafarosh
3. Md. Islam Itafarosh S/o Md. Sarfu Itafarosh
4. Md. Raju @ Md. Raju Itafarosh S/o Md. Islam Itafarosh All are Resident of
Village Dulaipur (Mahalla - Plot), Police Station Mugalsarai, District Chandauli
(Uttar Pradesh).

.... Petitioner/s

Versus

1. The State of Bihar.
2. Chanda Khatoon W/o Md. Naushad Itafarosh, D/o Late Noor Md. Itafarosh
Resident of Village + Post Bikarmganj, Police Station Bikarmganj, District
Rohtash.

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Madanjeet Kumar, Adv.

For the State : Mr. Rana Randhir Singh, APP.

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CORAM: HONOURABLE MR. JUSTICE SANJAY PRIYA

ORAL JUDGMENT

Date: 31-01-2018

The notice issued upon opposite party No. 2 has been
received personally by her but today, at the time of hearing, none
appeared on her behalf.

Heard learned counsel for the petitioners and the State.

This petition has been filed for quashing the order dated
28-02-2014 passed by learned Sub Divisional Judicial Magistrate,
Bikramganj, Rohtas in Complaint Case No. 780 of 2013 by which
and whereunder, the learned Magistrate has after holding enquiry,
found prima facie case for the offence under Section-498A of the
Indian Penal Code against the petitioners.

Counsel for petitioners has submitted that petitioner No.



1 is husband whereas petitioner Nos. 2, 3 & 4 are mother-in-law and brothers-in-law of the complainant.

In the complaint petition, it is alleged that the complainant was married with petitioner No. 1 in the year, 2009 as per Muslim customs. She was tortured in Sasural for demand of motorcycle and golden chain, which could not be fulfilled and finally, she was ousted from her matrimonial house. It is also alleged that one male and two female children were born after the marriage. The accused persons were not taking care of those children. The complainant is living with her children in her parental house but accused petitioners are not taking proper care of them.

From perusal of the complaint petition, this court finds that mere general and omnibus allegation has been levelled against petitioner Nos. 2 to 4 who are mother-in-law and brothers-in-law. There is no specific allegation of overt act against them. The Hon'ble Supreme Court in a judgment reported in ***PLJR 2013 (1) S.C. 10 (Geeta Mehrotra & Anr. Vs The State of U.P. & Anr.)***, has held that mere casual reference of names of family members in a matrimonial dispute without any allegation of their active involvement in offence is not sufficient for taking cognizance, moreso, when tendency is to rope in entire family members in matrimonial disputes. The Hon'ble Court has further observed in aforesaid judgment that Courts are



expected to adopt a cautious approach in matters of quashing specially in cases of matrimonial dispute whether FIR in fact discloses commission of an offence by the relatives of the principal accused or the F.I.R. prima facie discloses a case of over-implication by involving the entire family of the accused at the instance of the complainant, who is out to settle her scores arising out of the teething problem or skirmish of domestic bickering while settling down in her new matrimonial surrounding.

In the instant case, from the complaint petition, this court does not find any specific allegation of overt act against petitioner Nos. 2 to 4 who are mother-in-law and brothers-in-law of the complainant. Therefore, this court is of the view that continuance of criminal proceeding against petitioner Nos. 2 to 4 will be an abuse of the process of law and harassment to them.

Accordingly, the impugned order dated 28-02-2014 passed by learned Sub Divisional Judicial Magistrate, Bikramganj, Rohtas in Complaint Case No. 780 of 2013 along with entire criminal proceeding with regard to petitioner Nos. 2 to 4 is quashed.

So far as case against petitioner No. 1 is concerned; he is husband of the complainant. There is specific allegation of overt act in the complaint petition against petitioner No. 1.

This court does not find any illegality in the impugned



order dated 28-02-2014 passed by learned Sub Divisional Judicial Magistrate, Bikramganj, Rohtas in Complaint Case No. 780 of 2013 with regard to petitioner No. 1. Accordingly, this petition in respect of petitioner No. 1 is dismissed.

The court below will proceed against petitioner No. 1 in accordance with law.

This Cr. Misc. Application is allowed in part.

(Sanjay Priya, J)

A.K.V./-

AFR/NAFR	AFR
CAV DATE	NA
Uploading Date	16-02-2018
Transmission Date	16-02-2018

