

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.1891 of 2016

Arising Out of PS. Case No.-1275 Year-2013 Thana- NAWADAH COMPLAINT CASE
District- Nawada

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1. RABINDRA KUMAR JHA S/O- Late Badhan Jha,
2. DHARMVIR KUMAR JHA @ DHARMVIR JHA S/o Shri Rabindra Kumar Jha, Both are resident of Village- Maur, P.S.- Barbigaha, District- Sheikhpura.

... .. Petitioner/s

Versus

1. The State of Bihar.
2. Gopal Jha, Son of Shri Mudrika Jha
3. Guriya Devi @ Guriya Kumari, D/o Gopal Jha W/o Dharmvir Kumar
Both are Rresident of village - Hemda, P.S.- Warsaliganj, Distt.- Nawada.

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Smt. Sudha Ambastha
For the Opposite Party/s : Mr. Navin Kr. Pandey(App)

CORAM: HONOURABLE MR. JUSTICE SANJAY PRIYA
ORAL JUDGMENT

Date : 07-09-2018

Heard learned counsel for the petitioners and the State.

Notice was validly served on opposite party no.2 . But
none has appeared on behalf of the opposite party no.2.

This petition has been field for quashing the order dated
21.2.2014 passed by learned S.D.J.M., Nawada in Compliant Case
No. 1275 C/ 2013 by which the learned Magistrate has after holding
enquiry, found *prima facie* case for the offence under Sections 498A
and Section 4 of D.P. Act against the petitioners and others.

Learned counsel for the petitioners has submitted no
marriage of the daughter of the complainant was performed with
petitioner no.2. It is further submitted that petitioner no.2 has filed



written report before the Sheikhpura P.S. prior to lodging of the complaint about his kidnapping by the complainant and his family members. The aforesaid FIR has been annexed as Annexure-2.

Learned counsel for the petitioners has submitted that it is mentioned in the aforesaid FIR that petitioner no.2 was a student and he was going to appear in I. Sc. Examination

In the instant case the complainant has alleged that his daughter was married with petitioner no.2 on 4.5.2013. After marriage, she went to her sasural. She was tortured in her sasural for demand of Rs. 5 lacs. Ultimately, she was ousted from the matrimonial house. It is also alleged that she was tortured by her husband (petitioner no.2) as well as her father-in-law (petitioner no.1).

This Court after looking into the allegation in the complaint petition does not find any specific overt act against petitioner no.1, who is father-in-law of the daughter of the complainant. Therefore, this court is of the view that continuance of criminal proceeding against petitioner no. 1 will be an abuse of the process of law and harassment to him.

Therefore, the impugned order dated 21.2.2014 passed by learned S.D.J.M., Nawada in Compliant Case No. 1275 C/ 2013 along with entire criminal prosecution with regard to petitioner no.1 is hereby quashed.

So far petitioner no.2 is concerned, he is husband of the



daughter of the complainant. There is specific allegation of overt act in the complaint petition against petitioner no.2.

This Court does not find any illegality in the impugned order dated 21.2. 2014 passed by learned S.D.J.M., Nawada in Compliant Case No. 1275 C/ 2013 with regard to petitioner no.2, Accordingly, this petition with regard to petitioner no.2 is dismissed.

The court below will proceed against petitioner no.2 in accordance with law.

The petitioner No.2 is given liberty to raise all the points, as raised in the present application, at the appropriate stage including at the time of framing of charge, which shall be considered and disposed off by the learned court below in accordance with law without being prejudiced by this order.

This Cr. Misc. petition is allowed in part.

(Sanjay Priya, J)

shyambihari/-

AFR/NAFR	NAFR
CAV DATE	N/A
Uploading Date	10/9/18
Transmission Date	19/9/18

