

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.50473 of 2014

Arising Out of PS. Case No.-103 Year-2011 Thana- MOHIUDDIN NAGAR District- Samastipur

Lalita Devi W/O Binod Kumar Singh, resident of Village- Lemuabad, P.O.-
Chabilatar, District- Patna

... .. Petitioner/s

Versus

1. The State of Bihar
2. Sheela Devi, Daughter of Late Gyanchand Rai, Resident of Village-
Hattenpur, P.S.- Patori, District- Samastipur

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Shashi Bhushan Kumar, Advocate
For the State : Mr. Jharkhandi Upadhyay, APP

CORAM: HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH
ORAL JUDGMENT

Date : 18-12-2018

Heard learned counsel for the petitioner and
learned APP for the State.

2. In the present case, when the notice was issued
to the opposite party no. 2 (complainant), it transpired that she
was dead. Accordingly, the Court has proceeded to finally hear
the matter.

3. The petitioner has filed this application under
Section 482 of the Code of Criminal Procedure for the following
relief:

*“That this is an application on behalf of the
above named petitioner for quashing
cognizance order dated 25.05.12 passed by the
chief judicial magistrate Samastipur in Gr. No.
1369/11, Tr. No. 1949/2014 arising out of
complaint cum Mohaddinagar no. 103/2011
dated 04.07.11 so far petitioners are
concerned, whereby and where under*



cognizance has been taken under Section 498 (A), 323/34 of Indian Penal Code against the petitioners.”

4. The allegation against the petitioner and seven others is general and omnibus of torture and demand of dowry. The petitioner is the married sister of the alleged husband of the opposite party no. 2.

5. Learned counsel for the petitioner submitted that the case is totally false and frivolous and a clear cut case of abuse of the process of the court. It was submitted that the opposite party no. 2 had claimed that she was married to the brother of the petitioner in the year 1999 and based on the same the allegation for dowry has been made. It was submitted that when the petitioner's brother had moved this Court earlier seeking anticipatory bail, the Court in the presence of the opposite party no. 2 and the brother of the petitioner had directed for DNA test of the daughter of the opposite party no. 2, Anshu Kumari allegedly fathered by the brother of the petitioner. Pursuant to the direction, the DNA test was done at Central Forensic Science Laboratory, Kolkata and a report was submitted dated 13.06.2013. Based on the report, which showed that the child was not that of the brother of the petitioner, the Court had observed that it *prima facie* established the story of



the brother of the petitioner that he never married the opposite party no. 2 and also falsified the story set up by the complainant. Accordingly, anticipatory bail was granted to the brother of the petitioner. Learned counsel submitted that the opposite party no. 2 was married elsewhere and when her husband died she tried to force herself on the brother of the petitioner for accepting her as his wife and also taking the responsibility for the child whose father was not the brother of the petitioner but another person, whom the opposite party no. 2 had married, and he had died.

6. Further, learned counsel also relied upon the decision in the case of **Savitri Lal and Ors, vs. The State of Bihar and Another** dated 20.07.2018 in Cr. Misc. No. 41779 of 2014 in which reference has been given of various decisions of the Hon'ble Supreme Court where interference has been made on the ground that the close relatives of the husband are falsely implicated for oblique reasons.

7. Learned A.P.P. fairly submitted that though allegations have been made in the complaint petition but from the facts brought on record and also the opposite party no. 2 is dead, the Court may grant indulgence to the petitioner and also for the reason that she is the married sister of the so called husband of the opposite party no. 2.



8. Having considered the facts and circumstances of the case and submissions of learned counsel for the parties, the Court finds that a case for interference has been made out. From the entire complaint petition, it transpires that there are only vague and general allegations with regard to torture and demand of dowry. However, in view of the story set up in the complaint by the opposite party no. 2, that her daughter was fathered by the brother of the petitioner, having been scientifically falsified by the DNA Test, the Court finds that the present case is also false and letting it continue would be an abuse of the process of the Court.

9. For the reasons aforesaid, the application is allowed. The order dated 25.05.2012 taking cognizance by the Chief Judicial Magistrate, Samastipur in Gr. No. 1369 of 2011/ Tr. No. 1949 of 2014 arising out of Complaint -cum-Mohaddinagar P.S. Case No. 103 of 2011, as far as it relates to the petitioner, stands quashed.

(Ahsanuddin Amanullah, J)

Anjani/-

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