

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.52146 of 2014

Arising Out of PS. Case No.-1717 Year-2011 Thana- BHAGALPUR COMPLAINT CASE
District- Bhagalpur

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1. Madhu Mala Devi wife of Shiv Narayan Jha
 2. Shiv Narayan Jha son of late Bhujangi Jha
 3. Awadh Kishore Jha son of Shiv Narayan Jha
 4. Nand Kishore Jha son of Shiv Narayan Jha. All resident of Ranipur, Post Lagmahat, P.S. Kahalgaon, District Bhagalpur.

... .. Petitioner

Versus

1. The State of Bihar.
2. Anita Jha Wife of Pankaj Kumar Jha, Daughter of Ram Chandra Mishra Resident of Mahesi, Post Tilakpur, P.S. - Sultanganj, District - Bhagalpur.

... .. Opposite Parties

with
Criminal Miscellaneous No. 4900 of 2015

Arising Out of PS. Case No.-1717 Year-2011 Thana- BHAGALPUR COMPLAINT CASE
District- Bhagalpur

Pankaj Kumar Jha Son of Shiv Narayan Jha Resident of Ranipur, P.O. Lagmahat,P.S-Kahalgaon, Distt.-Bhagalpur

... .. Petitioner/s

Versus

1. The State of Bihar
2. Anita Jha W/o Pankaj Kumar Jha
3. Ram Chandra Mishra S/o Late Chintamani Jha Both are residents of Mahesi, P.O. Tilakpur, P.S. Sultanganj, Distt Bhagalpur.

... .. Opposite Parties

Appearance :

(In Criminal Miscellaneous No. 52146 of 2014)

For the Petitioners	:	Mr. Rajendra Kumar Jain, Advocate
For the State	:	Mr. Sanjay Kr. Singh, APP
For O.P. No.2	:	Mr. Omkar Nath, Advocate

(In Criminal Miscellaneous No. 4900 of 2015)

For the Petitioner	:	Mr. Rajendra Kumar Jain, Advocate
For the State	:	Mr. Aditya Narayan Singh-I, APP
For O.P. No.2	:	Mr. Omkar Nath, Advocate

CORAM: HONOURABLE MR. JUSTICE ARUN KUMAR
ORAL JUDGMENT

Date : 03-08-2018



Heard learned counsel for the petitioners and the learned APP appearing on behalf of the State.

2. Both the quashing applications bearing Cr. Misc. No.52146 of 2014 and Cr. Misc. No.4900 of 2015 have been filed by the petitioners under Section 482 of the Code of Criminal Procedure (hereinafter referred to as 'the Code) for quashing the order of cognizance dated 21.01.2012 thereby taking cognizance under Section 498A of the Indian Penal Code, passed by the learned SDJM, Bhagalpur in Complaint Case No.1717 of 2011.

3. The fact of the case in brief compass is that the marriage of the complainant's daughter was solemnized with Pankaj Kumar Jha, the petitioner of Cr. Misc. No.4900 of 2015 in the year 2001. Subsequently she was tortured by the accused persons for realizing further dowry and other accused persons also used to instigate her husband to commit torture. However, one son and one daughter were also borne out of the wedlock. At the time of filing of the complaint, they were nine and seven years of age. Ultimately in July, 2011, the daughter of the complainant was kicked out of the matrimonial home.

4. Learned counsel for the petitioners submits that the petitioners of Cr. Misc. No.52146 of 2014 are mother-in-law, father-in-law and rest two others are elder brothers of the husband



and all live separately from the husband of the complainant's daughter so were not concerned with their day to day matrimonial affair. Petitioner nos.3 and 4 are also employed in police department and petitioner no.3 is in the Jharkhand Cadre living in the State of Jharkhand and petitioner no.4 is posted in other district of Bihar and at the relevant point of time posted at different place and the husband of the complainant's daughter is also a police constable living separately at his place of posting. Learned counsel for the petitioners places reliance to the ratio decided in *Geeta Mehrota v. State of U.P.*, reported in (2012) 10 SCC 741.

5. Learned counsel appearing on behalf of the informant submits that the accusation is specific against each of the accused persons and earlier there was some effort made for compromise, pursuant to that effort the husband had taken his wife with him but later on again kicked her out of the matrimonial home.

6. Having considered the rival contentions of both sides and on perusal of the accusations made in the complaint and the materials on record, the Court finds that there is no specific accusation against the petitioners of Cr. Misc. No.52146 of 2014, the mother-in-law, father-in-law and two elder brothers of the husband. The complaint itself also discloses the fact that the two brothers of the wife's husband, accused in this case, are employed



in police department, one in Jharkhand and another in Bihar. The husband of the complainant's daughter is also a police constable in Bihar and all were posted at different places and living separately, moreover the accusation is not specific against them, only passing reference is made that they used to instigate the husband for committing torture. Now a days it is a trend to implicate all family members in case of matrimonial discord between husband wife. In such circumstance, continuation of criminal proceeding against such family members living separately at distant places would be abuse of the process of the Court and not in the interest of justice, hence the impugned order taking cognizance dated 21.01.2012, passed by the learned SDJM, Bhagalpur in Complaint Case No.1717 of 2011 with respect to petitioners of Cr. Misc. No.52146 of 2014 and subsequent criminal proceeding in the instant matter is hereby quashed. As far as the case of husband, i.e., petitioner of Cr. Misc. No.4900 of 2015 is concerned, there is specific accusation and material against him making out a *prima facie* case under Section 498A of the Indian Penal Code, so there is no ground for interference in the cognizance order with respect to the husband Pankaj Kumar Jha, accordingly his quashing application filed vide Cr. Misc. No.4900 of 2015 stands dismissed



consequently criminal proceeding against him will proceed further
in accordance with law.

7. In the result, Cr. Misc. No.52146 of 2014 is allowed;
whereas Cr. Misc. No.4900 of 2015 stands dismissed.

(Arun Kumar, J)

S.KUMAR/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	21.08.2018
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