

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.18501 of 2017

Arising Out of PS.Case No. -168 Year- 2016 Thana -PANDAUL District- MADHUBANI

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1. Rajeev Ranjan Jha, Son of Baidyanath Jha,
2. Bandana Jha, Wife of Rajeev Ranjan Jha,
3. Krishna Jha, Wife of Shri Bijay Chandra Jha, All are Resident of
Village- Raghopur, P.S.- Manigachhi, P.O.- Nehra, District-
Darbhanga.

.... Petitioners

Versus

The State of Bihar

.... Opposite Party

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Appearance :

For the Petitioner/s : Mr. Vijay Kumar, Advocate
Mr. Murari Narain Chaudhary, Advocate
For the Opposite Party/s : Mr. Dr. Rabindra Kumar, A.P.P.

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CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL JUDGMENT

Date: 11-09-2018

This application has been filed invoking the inherent jurisdiction of this Court under Section 482 of the Code of Criminal Procedure for quashing of the order dated 10.02.2017 passed by learned Chief Judicial Magistrate, Madhubani in G.R. No. 1649/2016 arising out of Pandaul P.S. Case No. 168/2016 whereunder cognizance of the offences under Sections 341, 498A and 307/34 of the Indian Penal Code read with Section 3 of the Dowry Prohibition Act has been taken and the accused persons including the present petitioners have been summoned to face trial.

2. The petitioner no. 1 is said to be the brother-in-law, petitioner no. 2 is the wife of petitioner no. 1 and petitioner no. 3 is the married sister-in-law of the informant. It appears that the informant of this case has appeared on



her own through her Advocate by filing Vakalatnama.

3. Learned counsel for the petitioners submits that according to the fardbeyan of the informant she was married with one Kumud Ranjan Jha, son of Baidyanath Jha of village Raghapur, P.S. – Manigachi in the district of Darbhanga. It is alleged that at the time of marriage the petitioner no.1 being the Bhaisur (elder brother) and Baidnath Jha (father-in-law) had demanded a sum of Rs. 10,00,000/- but the father of the informant could manage a sum of Rs. 6,50,000/- only through different persons and thereupon the marriage was performed.

It is further alleged that the husband of the informant stayed in her father's place for four days in accordance with Maithil Brahmin customs and during this period he was demanding for the rest of the amount. After four days her husband went back to his village but when the father of the informant requested the father-in-law, mother-in-law, sister-in-law, wife of the elder brother of the husband and the elder brother of the husband, then they demanded a sum of Rs. 3,00,000/- for the purpose of Duragaman. It is further alleged that in the year 2009 father of the informant under compulsion paid a sum of Rs. 2,50,000/- which



the husband of the informant spent in purchase of a Flat at Mumbai, but even thereafter Duragaman did not take place. It is stated that on 30.04.2012, the Duragaman took place and the informant went to her Sasural at Raghapur where she stayed for 10 days but not as daughter-in-law, she was being regularly beaten and being tortured.

4. It is alleged that she was being threatened to kill by setting her on fire. Father of the informant brought her back to her house at Pandaul, thereafter a panchayati took place wherein the husband of the informant took her to his house and after spending sometime there he took her to Mumbai. It is alleged that at Mumbai also all were torturing her. It is alleged that the informant was under treatment in Lakshya Second Hospital from 02.07.2013 to 08.07.2013. On 12.08.2013, the husband of the informant called some 'Gunda elements' and tried to kill the informant but with the intervention of the brother and staff namely, Lalan Paswan, she could be saved. It is further alleged on 05.08.2013, her father-in-law, Bhaisur and husband tried to kill her then she came back to her Mausi's place with her brother on 16.08.2013.

5. It is stated that since September 2013 her brother brought her back to Pandaul where she was living in



her father's place. At this stage, it is alleged that on 05.08.2016 the husband of the informant came on a Motorcycle at 8.00 a.m. in the morning at Pandaul and called her. When the informant went on the door, her husband put her Dupatta around her neck and started pressing with an intention to kill her. It is alleged that on her shouting, her father, brother and other persons came and thereby her life could be saved. It is alleged that her husband pushed her and fled away. It is then stated that she had suffered injury and is suffering from pain on her neck, back and in the body and for that treatment she had been brought to referral hospital where she made her statement.

6. Learned counsel for the petitioners submit that a bare reading of the fardbeyan of the informant it would appear that the entire thrust of the allegations of demand and the alleged torture and assault are against the husband of the informant.

7. It is submitted that so far as these petitioners are concerned, there is no allegation that they had either demanded or received any down amount from the father of the informant or had committed any act of torture against the informant. It is submitted that a general and omnibus kind of allegations have been made at one place in the fardbeyan that for purpose of Duragaman of the informant when her father approached the sasural people then the father-in-law,



mother-in-law, sister-in-law, wife of the elder brother-in-law and the elder brother-in-law had demanded a sum of Rs. 3,50,000/- for the purpose of Duragamanm, but in the same fardbeyan it is clearly stated by way of allegations that her father had given a sum of Rs. 2,50,000/- which was spent by her husband in purchase of Flat at Mumbai.

8. Learned counsel for the petitioners further submits that according to the fardbeyan, the informant had herself gone with her husband to live at Mumbai and there is no allegation that these petitioners were living in Mumbai and had indulged in assault. The F.I.R. only vaguely and cryptically alleged that all were torturing her. No name or relation has been mentioned. It is submitted that such kinds of allegation do not even *prima facie* indicate that at any stage these petitioners had indulged in any act of torture. Regarding the alleged occurrence, which took place on 12.08.2013, the informant has made allegations against her husband and in the later part a vague statement has been made that on 05.08.2013 the father-in-law, Bhaisur and her husband had tried to kill her. It is submitted that according to the informant she was living with her father at Pandaul since September 2013. Regarding the alleged occurrence dated 05.08.2016 the whole allegations have been made against the husband alone.

9. Learned counsel submits that the petitioner



no. 1 is a government employee posted at Employees Provident Fund Organization in the Ministry of Labour, Government of India, his wife Bandana Jha is also living with him and both of them have no concern with the family of Kumud Ranjan Jha and the informant. The petitioner no. 1 and 2 are separate in their mess and business which is evident from the contents of the F.I.R. itself where the informan says that her father had given Rs. 2,50,000/- which was spent by her husband on purchase of Flat in Mumbai. So far as the petitioner no. 3 is concerned, she is the married sister-in-law of the informant. Petitioner no. 3 was married about 15 years back and is living with her husband at Bokaro who is a railway employee posted there.

10. Learned counsel submits that in course of investigation police submitted a final form against these petitioners showing that no material could be collected against them which may be said to be sufficient to proceed against these petitioners, still the learned Judicial Magistrate, 1st Class, Darbhanga differed with the police report without application of a judicial mind and while taking cognizance of the offences decided to issue summons against these petitioners also.

11. Learned counsel submits that the learned Chief Judicial Magistrate, Madhubani, while summoning these petitioners, has not even shown the reasons for taking



a different view and merely by referring certain paragraphs of the case diary, he has issued summons against all the accused persons including the petitioners. It is submitted that the learned Chief Judicial Magistrate, Madhubani has failed to appreciate that neither the fardbeyan of the informant nor any material in course of investigation could be collected by police to even *prima facie* implicate these petitioners. It is submitted that the learned Chief Judicial Magistrate, Madhubani could not see that these petitioners have been implicated in the present case only because they happened to be related with the husband of the informant.

12. It is submitted that in the case of ***Pritam Ashok Salaphule Vs. State of Maharashtra*** reported in ***(2015) 11 SCC 769***, the Hon'ble Supreme Court has been pleased to observe that the prosecution of the relatives of the husband by simply implicating them on vague grounds cannot be allowed to continue. This is the consistent view of the court as well.

13. Contesting the submission of learned counsel representing the petitioners, Ms. Sama Sinha, learned Advocate representing the informant that there are allegations against these petitioners in the fardbeyan, therefore the learned Chief Judicial Magistrate, Madhubani has not committed error in differing with the police report and issuing summons against these petitioners as well.



14. Having heard learned counsel for the parties and upon perusal of the records, this court finds that it is not in dispute that petitioner no. 1 is the brother-in-law who is a government employee working in the Employees Provident Fund Organization and petitioner no. 2 is his wife and these two petitioners are living separately in mess and business with the family of Kumud Ranjan Jha and the informant. It is also not in dispute that Krishna Jha (petitioner no. 3) is the married sister-in-law of the informant who was married about 15 years back and is presently living with her husband at Bokaro where his husband is a railway employee.

15. When this court goes through the allegations made in the fardbeyan, it is found that these three petitioners have been implicated in the F.I.R. without there being any specific allegations or even *prima facie* allegations indicating that these petitioners have participated in demand of dowry or the alleged occurrence. Only a vague and most tentative kind of allegations made in the fardbeyan that at the time of Duragaman these petitioners were also among the members of the sasural party who had been asking for Rs. 3,00,000/- as demand for Duragaman. This court finds that according to the informant herself a sum of Rs. 2,50,000/- was given by her father for purpose of Duragaman and the said amount was spent by her husband in purchasing the Flat at Mumbai. There is no allegation that petitioner no. 1 and 2 have got any



connection with the family of the informant and further in the fardbeyan there is no allegation that these two petitioners had committed any overt act of torture and assault. Again in a most vague and cryptic manner and with sole intention to implicate each and every member of the family of the husband a statement has been made that petitioner no. 1 had tried to kill the informant. A mere one line statement has been made in this regard without indicating the place and how. So far as petitioner no. 3 is concerned, she has also been implicated in this case without there being any *prima facie* material to indicate her involvement in the alleged act of torture. In fact, there is no allegation of torture or assault against these petitioners save and except the bald allegations in a most cryptic manner. Even in course of investigation police could not collect any material to show *prima facie* involvement of these petitioners in commission of the alleged occurrence.

16. In the given circumstance, in the opinion of this court, the learned Chief Judicial Magistrate, Madhubani was required to keep in mind the judicial pronouncements of the Hon'ble Apex Court and this court as well in respect of the cases related to the family members or close kith and kin of the husband and in the cases where the wife who comes with vague allegations with an intention to implicate each and every family members of the husband. The learned Chief



Judicial Magistrate, Madhubani has failed to appreciate the nature of allegations and the manner in which it has been stated in the fardbeyan. Keeping in mind the judgment of the Hon’ble Apex Court which has been cited and has been taken note of hereinabove, this court is of the considered opinion that the continuation of the prosecution of these petitioners would only be an abuse of the process of the court. In order to secure the ends of justice the order taking cognizance and issuance of summons dated 10.02.2017 passed by learned Chief Judicial Magistrate, Madhubani in G.R. No. 1649/2016 arising out of Pandaul P.S. Case No. 168/2016 in so far as it relates to these three petitioners stands quashed.

17. This application is allowed to the extent indicated hereinabove.

(Rajeev Ranjan Prasad, J)

Rajeev/-

AFR/NAFR	NAFR
CAV DATE	
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