

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.5054 of 2016

Arising Out of PS.Case No. -1990 Year- 2012 Thana -SAHARSA COMPLAINT CASE District-
SAHARSA

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1. Prabhash Kumar Singh @ Prawesh Singh Son of Late Devendra Prasad Singh
2. Daya Devi wife of Late Devendra Prasad Singh All are residents of Village Rakiya, Police Station Bihra, District Saharsa.

.... Petitioner/s

Versus

1. The State of Bihar.
2. Dazy Devi wife of Prabhash Kumar Singh @ Prawesh Singh, daughter of Ram Janam Singh Resident of Village Panchgachhiya (Koshi Colony) Police Station Bihra, District - Saharsa.

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Satish Kumar Singh
For the Opposite Party/s : Mr. Shailendra Kumar Singh(App)

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CORAM: HONOURABLE MR. JUSTICE SANJAY PRIYA
ORAL ORDER

2 17-09-2018 Heard the learned counsel for the petitioners as well as the State.

The petitioners seek quashing of order dated 13.06.2013 passed by learned Judicial Magistrate, Saharsa in Complaint Case No. 1990C/2012, whereby the court below has found *prima facie* case for offence under Section 498A of the Indian Penal Code.

In the complaint petition, it is alleged that the complainant was married with petitioner no. 1 about 12 years ago. She was tortured for non-fulfillment of demand of dowry by these petitioners. It is further alleged that two daughters have born out of



the wedlock. It is further alleged that on 26.08.2012 petitioners entered into her room and started assaulting her. On alarm, nearby persons arrived and saved her life. In the next morning, she was ousted from house along with two minor daughters aged about 9 years and 6 years respectively.

Learned counsel for petitioners has submitted that the instant case has been filed by the complainant as a counter blast after filing of divorce case by petitioner no. 1 on 23.07.2012. The instant complaint petition has been filed by complainant on 26.11.2012 after receiving notice in divorce case.

Learned Magistrate has mentioned in the impugned order that after going through S.A. of complainant and statement of witnesses, it appears that there is consistency in their statement. He has found *prima facie* case against the petitioners.

As per complaint petition, complainant was married with petitioner no. 1 about 12 years ago. She was tortured in her *Sasural* and was ousted with her minor children.

It appears that petitioner no. 1 has also filed divorce case against the complainant vide Divorce Case No. 106/2012.

In this manner, petitioners have completely neglected the complainant/O.P. No. 2.

Therefore, this Court does not find any illegality in the impugned order dated 13.06.2013 passed by learned Judicial



Magistrate, Saharsa

Accordingly, the Criminal Miscellaneous is dismissed.

The petitioners are given liberty to raise all the points as raised in this petition at appropriate stage of trial including at the time of framing of charge, which shall be considered by the court below in accordance with law without being prejudiced by this order

(Sanjay Priya, J.)

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