

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Writ Jurisdiction Case No.489 of 2019

Arising Out of PS. Case No.-175 Year-2018 Thana- SITAMARHI District- Sitamarhi

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1. Sonali Sinha @ Guria Wife of Shailendra Kumar Sinha
 2. Priti Devi Wife of Sumit Sinha
 3. Kanti Devi Wife of Late Shatis Prasad Sinha
 4. Indu Devi Wife of Vijay Sinha

All Resident of Village - Nuruddinganj, P.S.- Malsalami, District - Patna

... .. Petitioner/s

Versus

1. The State of Bihar through Principal Secretary, Department of Home Govt. of Bihar, Patna
2. The Superintendent of Police, Dist- Sitamarhi
3. The Officer in Charge of Police Station Sitamarhi
4. The Investigation Officer of Sitamarhi Police Station Dist- Sitamarhi

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr.Brij Bihari Tiwary, Advocate
For the Respondent/s : Mr.Md. Nadim Seraj, GP-5

CORAM: HONOURABLE MR. JUSTICE ASHWANI KUMAR SINGH
ORAL JUDGMENT

Date : 11-03-2019

The defects, as pointed out by the registry, are ignored.

2. Heard learned counsel for the petitioners and learned counsel for the State.

3. This application under Article 226 of the



Constitution of India has been filed by the petitioners for quashing the first information report (for short 'FIR') of Sitamarhi P.S. Case No. 175 of 2018 registered under Sections 341, 323 and 498A of the Indian Penal Code (for short 'IPC') as also Sections 3 and 4 of the Dowry Prohibition Act.

4. Learned counsel for the petitioners submitted that the FIR has been instituted on the basis of a complaint without ensuring as to whether there was prior compliance of Section 154(1) and 154(3) of the Code of Criminal Procedure (for short 'Cr.P.C'). He submitted that the complainant had not stated on oath that prior to the institution of the complaint, he had visited the police station for institution of the FIR and on refusal by the Station House Officer, he had transmitted the substance of the complaint to the Superintendent of Police concerned.

5. *Per contra*, learned counsel for the State submitted that the allegation made in the complaint clearly attracts the ingredients of a cognizable offence. The complainant had not requested the court for referring the complaint to the police for institution of an FIR rather the court itself thought it proper that the matter needs investigation and referred the complaint to the police for investigation. Under such a



circumstance, there is no necessity of prior compliance of Sections 154(1) and 154(3) of the Cr.P.C.

6. Having heard learned counsel for the parties, I find substance in the submission of learned counsel for the State. The complainant had stated in the complaint that she was married to one Suraj Kumar Singh on 20.11.2017 as per Hindu rites and customs. After the marriage, she was being subjected to cruelty in her matrimonial home by her husband and relatives including the petitioner. The allegation made in the complaint do attracts ingredients of the offences punishable under Section 498A of the IPC as also Sections 3 and 4 of the Dowry Prohibition Act. The learned Magistrate, in exercise of powers conferred under Section 156(3) of the Cr.P.C. referred the complaint to the police for investigation pursuant to which the FIR has been instituted. Apparently, the complaint has not been referred to the police on mere asking by the complainant. Under such circumstance, it was not necessary in law to first take steps under Sections 154(1) and 154(3) of the Cr.P.C. before filing of the complaint.

7. In that view of the matter, I do not see any illegality in the order whereby the Magistrate referred the case to the police for institution of the FIR or institution of the FIR



pursuant to the order of the court.

8. The application, being devoid of any merit,
is dismissed.

(Ashwani Kumar Singh, J)

Md. S/SKSuman.

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	13.03.2019
Transmission Date	13.03.2019

