

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.8815 of 2015**

Arising Out of PS. Case No.-119 Year-2013 Thana- AIRPORT District- Patna

Krishna Chaudhary Son of Late Jhalli Chaudhary, Resident of Mohalla-Khajpura, P.S.- Hawaii Adda, District- Patna.

... .. Petitioner/s

Versus

1. State Of Bihar
2. Robina Khatoon D/o Rahmtulla Ansari @ Rahmtulla Khan. R/o Village-Jadhua Pokhra, P.S.- Town Hajipur, District- Vaishali.
3. Ranjeet Kumar Chaudhary @ Shahabuddin Ansari @ Md. Shahil Ansari S/o Krishna Chowdhary @ Md. Abbas. R/o Village- Jadhua Pokhra, P.S.- Town Hajipur, District- Vaishali.

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. Sunil Kumar, Advocate
For the State	:	Mr. Sunil Kumar Pandey, APP
For the Opposite Party No.2	:	Mr. Ajay Kumar Singh No.1, Advocate

**CORAM: HONOURABLE MR. JUSTICE BIRENDRA KUMAR
ORAL JUDGMENT**

Date : 02-09-2019

Heard learned counsel for the parties.

2. The petitioner is father-in-law of opposite party No.2, *Robina Khatoon*. Opposite Party No.3, *Ranjeet Kumar Chaudhary* is son of this petitioner and husband of *Robina Khatoon*.

3. According to First Information Report, *Ranjeet Kumar Chaudhary* had entered into marriage with mutual consent with *Robina Khatoon* on 18.03.2013. The family members of *Ranjeet Kumar Chaudhary* did not approve the marriage. The husband of the informant had come to the house of



his parents and he had switched off his mobile phone. Hence, the informant came to the house of the petitioner, where the petitioner and other family members allegedly abused her and committed assault against her as well.

4. The petitioner has challenged the order of cognizance dated 21.09.2013 passed in G.R. No.4276 of 2016, arising out of Hawaii Adda Police Station Case No.119 of 2013, whereby cognizance has been taken for the offences under Sections 498 (A), 341, 323 and 504/34 of the Indian Penal Code.

5. Learned counsel for the petitioner submits that there is no allegation of illegal demand and torture for the same. Hence, cognizance under Section 498 (A) of the Indian Penal Code is bad in law and suffers from non-application of judicial mind on the material on the record.

His next contention is that after the marriage between the two, a family arrangement was made on 01.06.2013, whereunder the husband of the informant agreed to receive Rs.5,00,000/- (Rupees Five Lacs) in lieu of his share in small piece of land which could not have been partitioned and the husband of the informant received the said Rs.5,00,000/- (Rupees Five Lacs) and the informant also signed on the said family arrangement paper on 01.06.2013. After that there was no



occasion for the husband of the informant or for the informant to come to the residential house of the petitioner. Hence, allegation of wrongful restrain is not made out and other allegation of commission of assault etc. are concoction, just to pressurize for more money. The husband of the informant is not an accused in this case.

6. Learned counsel for the informant opposed the prayer and submits that prima facie case is already disclosed in the First Information Report and the material collected by the Police. Therefore, in exercise of extra ordinary power, this Court should not interfere with the impugned order.

7. The factum of family arrangement and separation between the husband of the informant and other family members are not in dispute. The family had only two residential plots. There was a house on 503 sqft of land, vide holding No.887 A near Hawai Adda at Patna. Another plot was in village- Sadikpur measuring six and a half decimal. The brother and parents of the husband of the informant were also co-sharer. The contents of family arrangement at *Annexure 3* would reveal that due to dispute arising out of nature of the food used by the informant and others, the parties decided to separate and with consent the immovable property was left with the petitioner as well as the



wife of the petitioner and husband of the informant received Rs.5,00,000/- (Rupees Five Lacs) in lieu of his share as per the market price of the land and the house on the prevailing date. Apparently, the jointness of the family had already disrupted prior to the alleged occurrence dated 16.07.2013, when the informant had gone to the house of the petitioner to search about her husband and the petitioner committed abuse and assault.

8. Normally, this Court would not have interfered with the order of cognizance when prima facie case is made out. However, in the background of the allegation narrated above, this is a case of abuse of process of the Court, which cannot be allowed to go on. Hence, the impugned order and entire criminal proceeding arising out of impugned order is, hereby, ***quashed*** and this application stands ***allowed***.

(Birendra Kumar, J)

abhishek/-

AFR/NAFR	NAFR
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