

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.3883 of 2017

Arising Out of PS. Case No.-238 Year-2014 Thana- ROHTAS COMPLAINT CASE District-
Rohtas

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1. Bhaiya Ram Singh, Son of Late Pheku Singh,
 2. Sandhaya Devi, Wife of Bhaiya Ram Singh, Both are Resident of Village-
Musawat, P.S.- Natwar, District- Rohtas.

... .. Petitioner/s

Versus

1. The State of Bihar
2. Asha Devi, Wife of Raju Singh, daughter of Bijay Bahadur Singh, resident
of Village- Chanawat, P.S.- Nawanagar, District- Buxar.

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Nagendra Upadhyay
For the Opposite Party/s : Mr. Brajendra Nath Pandey

CORAM: HONOURABLE MR. JUSTICE ADITYA KUMAR TRIVEDI
ORAL ORDER

2 02-05-2019 Heard learned counsel for the petitioners as well as learned
Additional Public Prosecutor.

Husband is still evading his presence and on account thereof,
the matter is lingering since 2015.

Petitioners, who happen to be the father-in-law, mother-in-law
have challenged the order dated 25.07.2014 passed by the learned
Magistrate Sri Ved Prakash Modi, Bikramganj, whereby and whereunder
both the petitioners including husband have been summoned to face trial
for an offence punishable under Section 498A of the I.P.C.

It has been contended at the end of the learned counsel for the
petitioners that from perusal of the complaint petition, it is evident that the
complainant/ opposite party no.2 had earlier instituted a case bearing
Natwar P. S. Case No.32 of 2010, which was disposed in the background
of compromise. Then thereafter, complainant and husband began to reside



conjointly, they asked for partition, which was effected in the family and then thereafter, the complainant after disposing off her share, took her husband to her Naihar and that being so, petitioners could not be held responsible for any misdeed having amongst the spouse. Also submitted that petitioners have also filed a petition before the learned lower Court on 14.01.2015 (Annexure-2). Furthermore, it has also been submitted that there happens to be omnibus allegation levelled against the petitioners and so, the cumulative effect did not justify the prosecution.

On the other hand, learned Additional Public Prosecutor opposed the same.

After going through Annexure-2, it is evident that petitioners have made out a ground in the background of disclosure having under Para-2, whereunder at one occasion, they had mentioned the fact that after partition the land falling under the share of husband of the complainant/ opposite party no.2 has already been given, on the other hand, it has also been mentioned that after receiving price in lieu of his share Raju Singh (son of the petitioners) gone along with his father-in-law apparently is after thought as, no price has been disclosed and further, whether petitioners were in possession of the cash and for that, source also not been disclosed. Furthermore, it happens to be a petition after their appearance. Now, coming to facts of the case, there happens to be specific disclosure that after having the case compromised, complainant came to reside with her husband at her sasural. All the accused became annoyed with her in the background of expenses, they incurred while contesting the Natwar P. S. Case No.32 of 2010 and in the aforesaid background, there happens to be disclosure that on 28.03.2014, all the accused caught hold, tied and then,



her husband began to press her neck in order to kill, which she anyhow averted and further, on being informed ultimately, though case has not been registered, rescued by the police in the night itself and this is sufficient to identify the complicity of the petitioners. Apart from this, Section 34 of the I.P.C. is meant for to tackle such situation.

Accordingly, I do not see any cogent reason to interfere with the order impugned. Consequent thereupon, instant petition is rejected.

(Aditya Kumar Trivedi, J)

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