

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.22116 of 2014

Arising Out of PS. Case No.-89 Year-2009 Thana- MADHEPURA COMPALINT CASE
District- Madhepura

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1. Rakesh Kumar @ Roshan Kumar @ Rajesh Kumar Son of Deochandra Ram
 2. Deochandra Ram Son of Late Sukhdeo Ram
 3. Bijendra Ram S/o - Panchu Ram
 4. Bilash Ram Son of Late Sukhdeo Ram
 5. Gita Devi W/o - Deochandra Ram
 6. Jhalari Devi Wife of Late Dashrath Ram
 7. Rekha Devi Daughter of Deochandra Ram All Resident of Village - Ajgewa,
Police Station - Sour Bazar, District - Saharsa.

... .. Petitioner/s

Versus

1. The State of Bihar
2. Veena Devi wife of Rakesh Kumar @ Roshan Kumar Daughter of Sahdeo
Ram, Resident of Village-Ajgewa, Police Station- Sour Bazar, District-
Saharsa at present address Village and Post Office Rahta Funhan, Police
Station- Uda Kishunganj, District- Madhepura.

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.
For the Opposite Party/s : Mr.

CORAM: HONOURABLE MR. JUSTICE AHSANUDDIN
AMANULLAH

ORAL JUDGMENT

Date : 02-01-2019

Heard learned counsel for the petitioners; learned A.P.P.

for the State and learned counsel for the opposite party no. 2.

2. The petitioners have moved the Court under Section
482 of the Code of Criminal Procedure, 1973 for the following
relief:

*“That this quashing application is
directed against the impugned order dated
07/09/2009 passed by the Learned Sub-Divisional
Judicial Magistrate, Madhepura passed in
connection with Complaint Case No. 89 C/2009,*



whereby and where under the Learned Sub-Divisional Judicial Magistrate, Madhepura took cognizance of the offences under section 498(A), 323 of the Indian Penal Code and section 4 of the Dowry Prohibition Act and directed to issue summons against the petitioners.”

3. The petitioner no. 1 is the husband of the opposite party no. 2 (complainant) and others are family members/relatives of the petitioner no. 1. During the pendency of the application, the petitioner no. 2, who is father of the petitioner no. 1 has died.

4. The allegation against the petitioners is of demand of dowry and torture and also assault.

5. Learned counsel for the petitioners submitted that from the plain reading of the complaint, it would be obvious that the allegations are cosmetic and further, with regard to the complainant being poisoned at the house of the petitioner no. 1, it is improbable as there is no attached prescription to show that there was any poisoning. Learned counsel further referred to the Informatory Petition filed by the petitioner no. 1 before the police on 19.01.2018, alleging threatening by the relatives of the complainant.

6. Learned A.P.P. for the State and learned counsel for the opposite party no. 2 submitted that the petitioners were also responsible in the harassment and demand of dowry and with regard to petitioner no. 1, despite Court order, when the



complainant was accompanying him to the matrimonial home, she was left at night at Mansi railway station and petitioner no. 1 had run away and she had to call her brother to go home of which, the Court had taken judicial notice and also directed payment of Rs. 25,000/- by the petitioner no. 1 to the opposite party no. 2. However, on a direct query of the Court as to what was the specific role of the other petitioners with regard to any dispute which may occur between the husband and the wife, as ultimately it is the husband who is responsible for the well being and general welfare of the wife i.e., opposite party no. 2, learned counsel was not in a position to show any specific or direct allegation against the other petitioners.

7. Having considered the facts and circumstances of the case and submissions of learned counsel for the parties, the Court finds that the petitioner no. 1, being the husband, is answerable and responsible for the general well being of the complainant, who is the wife and as far as the allegations are concerned, the same cannot be said to be frivolous at their face value and the taking of cognizance against him cannot be said to be bad in law requiring any interference. Accordingly, the application on his behalf stands dismissed.



8. However, as far as petitioners no. 3 to 7 are concerned, the Court finds that their involvement is only to the extent of they being relatives to the petitioner no. 1 as against them, there is no specific allegation which would warrant them to undergo the rigors of trial and the same would be an abuse of the process of the Court.

9. Accordingly, the application on behalf of petitioners no. 3 to 7 is allowed.

10. The order dated 07.09.2009 passed by the Sub Divisional Judicial Magistrate, Madhepura taking cognizance under Sections 498A/323 of the Indian Penal Code and 4 of the Dowry Prohibition Act in Complaint Case No. 89C of 2009, as far as it relates to them, stands quashed.

(Ahsanuddin Amanullah, J.)

P. Kumar

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