

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.38922 of 2014

Arising Out of PS. Case No.-1970 Year-2012 Thana- PATNA COMPLAINT CASE District-
Patna

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1. Randhir Vishwakarma S/o Devendra Vishwakarma
 2. Devendra Vishwakarma S/o Late Sitaram Vishwakarma
 3. Suraj Mani Devi W/o Devendra Vishwakarma
 4. Ranjit Vishwakarma S/o Devendra Vishwakarma
 5. Anita Devi W/o Ranjit Vishwakarma
 6. Guriya Devi @ Manorma Devi D/o Devendra Vishwakarma, W/o Bindeshwari Vishwakarma
 7. Bindeshwari Vishwakarma @ Vineshwar Viswakarma S/o Arjun Vishwakarma
 8. Madhuri Devi W/o Mant Vishwakarma
 9. Mant Vishwakarma S/o Late Dhyan Vishwakarma
- All Resident of Village Lala Badsara, Police Station Dulhin Bazar, District Patna.

... .. Petitioner/s

Versus

1. The State Of Bihar.
2. Renu Devi D/o Dilip Vishwakarma, W/o Randhir Vishwakarma Resident of Village Bairiya, Police Station Gaurichak, District Patna, at present C/o Surendra Prasad Sipahiji, Sipara, Police Station Beaur, District Patna.

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. Shivendra Kumar Sinha, Advocate
For the State	:	Mr. Shailendra Kumar No. 1, APP
For Opposite party No. 2	:	None

CORAM: HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH

ORAL JUDGMENT

Date : 16-01-2019

Heard learned counsel for the petitioners and learned A.P.P. for the State.

2. Despite notice having been served on the opposite party no. 2 and learned counsel also entering appearance, nobody was present when the matter was taken up and heard.



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

“That this is an application for quashing the order dated 20.12.12 passed by the learned Sub-Divisional Judicial Magistrate Patna in Complaint Case No. 1970(C) of 2012 by which learned Magistrate has took the cognizance for offences alleged under section 498(A) of the Indian Penal Code and section 4 of the Dowry Prohibition Act.”

4. The allegations against the petitioners by the opposite party no. 2, who is the wife of petitioner no. 1, is of assault and torture and demand of dowry and specifically against petitioners no. 1 and 4 of also trying to establish physical relationship with the opposite party no. 2.

5. Learned counsel for the petitioners submitted that the opposite party no. 2 herself has left the matrimonial home and is residing with another person somewhere else. It was submitted that even the allegations made are general and omnibus and some of the petitioners are unconnected with the family and do not reside in the matrimonial home and have been made accused with *mala fide* intention. Learned counsel submitted that the petitioner no. 1 himself is a poor person and, thus, does not have much landed property which would show that the allegations made against



others of trying to kill the children of the opposite party no. 2 for grabbing the property is not correct. Learned counsel submitted that the matter having been earlier sent for mediation, the opposite party no. 2 was offered one *katha* of land, which she refused to take and, thus, the mediation failed.

6. Learned A.P.P. for the State opposed the prayer. Learned counsel for the opposite party no. 2 submitted that from the reading of the complaint, it cannot be said that the allegations are cosmetic as many facts have been stated which appear to be quite natural, especially the initial maltreatment on the birth of a girl child. Learned counsel submitted that for making an allegation with regard to attempt to establish physical relationship against the father-in-law and brother-in-law by the opposite party no. 2 is not easy and the same having been made cannot be brushed aside lightly as it is not uncommon that such things happen in the society. Learned counsel further submitted that the allegation of the opposite party no. 2 living with another person and, thus, not wanting to return and the complaint being *mala fide* is also proved wrong from the fact that, as has been submitted by the learned counsel for the petitioners, she refused one *katha* of land which clearly shows that if she had really not wanted to come back to the matrimonial home and live with another person then she would



have readily taken one *katha* of land and not refused the same. However, on a direct query of the Court as to what was the role of the other persons who have been made accused, barring the husband, father-in-law and brother-in-law, i.e., petitioners no. 1, 2 and 4, he was not in a position to controvert that nothing specific has been stated against them.

7. Having considered the facts and circumstances of the case and submissions of learned counsel for the parties, the Court finds that as far as petitioners no. 1, 2 and 4 are concerned, there being specific allegations and the same not being of a frivolous nature, it cannot be said, at this stage, that they are fit to be quashed.

8. Accordingly, the application, on behalf of petitioners no. 1, 2 and 4 stands dismissed.

9. As far as petitioners no. 3, 5, 6, 7, 8 and 9 are concerned, the Court finds that just because of their relationship or proximity to the in-laws of the opposite party no. 2, they have also been made accused in the present case, but against them nothing substantive has been stated or is made out to warrant them facing a full-fledged trial.

10. For reasons aforesaid, the application, on behalf of petitioners no. 3, 5, 6, 7, 8 and 9 is allowed. The criminal



proceeding arising out of complaint case no. 1970 (C) of 2012 including order dated 20.12.2012 by which cognizance has been taken under Section 498A of the Indian Penal Code and Section 4 of the Dowry Prohibition Act, as far as it relates to them, stands quashed.

(Ahsanuddin Amanullah, J)

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