

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.15847 of 2014

Arising Out of Case No.-2789C Year-2012 Thana- PATNA COMPLAINT CASE District-
Patna

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1. Rohit Ranjan Sinha @ Bobby and Ors Son Of Kamla Kant Prasad Sinha @ Lallu Da
 2. Kamla Kant Prasad Sinha @ Lallu Da, Son Of Late Parmeshari Prasad Sinha
 3. Lali Sinha Wife Of Kamla Kant Prasad Sinha @ Lallu Da
 4. Rajiv Sinha Son Of Kamla Kant Prasad Sinha @ Lallu Da
 5. Sahil Sinha @ Sonu Son Of Kamla Kant Prasad Sinha @ Lallu Da
All Resident Of Mohalla - Gilanpura, P.S.- Dumka Town, District - Dumka
 6. Nilam Sinha @ Neelu Sinha Wife Of Late Bachhan Resident Of Mohalla -
Jakkanpur Near Shiv Mandir P.S.- Jakkanpur, District - Patna

... .. Petitioner/s

Versus

1. The State Of Bihar
2. Shyamali Sinha @ Mini Wife Of Rohit Ranjan Sinha @ Bobby Daughter Of
Shashi Bhushan Prasad Resident Of Rajiv Nagar, P.S.- Rajiv Nagar, District -
Patna

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. Iqbal Asif Niazi, Advocate
For the State	:	Mr. Harendra Prasad, APP
For the O. P. No. 2	:	Mr. Arun Kumar Sinha, Advocate Mr. Shiv Shankar Sharma, Advocate

CORAM: HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH
ORAL JUDGMENT

Date : 20-02-2019

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 is an application for quashing the order of
taking cognizance dated 08.11.2012 passed by the
learned Sub-Divisional Judicial Magistrate, Patna in
Complaint Case No. 2789(C) /12 whereby a prima facie*



case is found against the petitioners under section 498A of the Indian Penal Code and section 3/4 of Dowry Prohibition Act and a direction was issued for issuance of summon against them and consequently for quashing the entire criminal proceeding against the petitioners in connection with present case.”

3. The allegation against the petitioners is general and omnibus of demand of dowry, torture and specifically against petitioner no. 1, who is the husband, and also petitioner no. 2, who is the father-in-law of the opposite party no. 2.

4. Learned counsel for the petitioners submitted that it was the opposite party no. 2 who had willingly deserted the husband i.e., petitioner no. 1 and despite his repeated attempts to get her back, she did not come. It was further submitted that the allegation with regard to dowry is totally false. Learned counsel submitted that the main cause for the opposite party no. 2 to file the case was that she wanted to abort the pregnancy but the petitioner no. 1 insisted her not to do. It was further submitted that her behavior in the matrimonial home with the relatives of petitioner no. 1 was not good and that she herself wanted to be in her parental home rather than in the matrimonial home. It was further submitted that the petitioner no. 2 had filed Informatory Petition before the Chief Judicial Magistrate, Dumka being Informatory Petition No. 62 of 2011 on 30.04.2011 with regard to



such mischievous activity and misbehavior of opposite party no. 2 and her parents. Attention was also drawn by learned counsel towards the so called letter written by the petitioner no. 2 dated 15.07.2011 to the opposite party no. 2 asking her to return. Learned counsel further submitted that in the supplementary affidavit filed on behalf of the petitioner, copy of the order dated 23.01.2017 in Matrimonial Case No. 189 of 2015 would show that the divorce case filed by the opposite party no. 2 has also been decreed.

5. On a query of the Court to learned counsel for the petitioners as to how the letter written by the petitioner no. 2 and the Informatory Petition filed by him was of any help to them since after filing the Informatory Petition on 30.04.2011, he is said to have written to the opposite party no. 2 on 15.07.2011, which clearly shows that he was not bothered about the family reputation since more than three months prior to writing a letter, he himself had already filed a formal Informatory Petition before the Court at Dumka and also as to despite entering appearance in the divorce case, the same was not contested and further no appeal has been filed, learned counsel could not show any valid reason. However, learned counsel submitted that with regard to petitioners no. 3 to 6,



there is absolutely no specific allegation and the same is totally vague, general and omnibus.

6. Learned A.P.P. submitted that the Court below has found material against the petitioners and rightly taken cognizance.

7. Learned counsel for the opposite party no. 2 submitted that as far as the petitioner no. 1, who is the husband and petitioner no. 2, who is the father-in-law of the opposite party no. 2, are concerned, there are specific instances of torture and demand of dowry. With regard to others, he could not controvert the fact that there is no direct or specific allegation.

8. Having considered the facts and circumstances of the case and submissions of learned counsel for the parties, the Court finds that against the petitioners no. 1 and 2, there is direct allegation which, at this stage, cannot be said to be either frivolous, unreasonable or unbelievable. First and foremost, the petitioner no. 1, being the husband and the couple cohabiting for sometime and thereafter no steps being taken by the petitioner no. 1 for getting the opposite party no. 2 to come back to live with him and only a vague statement in this application that he was regularly requesting her to come back does not show *bona fide* with regard to such stand. Moreover, the allegation that due to



opposite party no. 2 wanting to abort, the differences started, is also unbelievable for the reason, that soon after the pregnancy, she admittedly started living with her parents and thus, if at all, she wanted to terminate the pregnancy, nothing stopped her from doing so. Further, with regard to petitioner no. 2, there is specific allegation of him leaving her at Patna first while coming from Bangalore and secondly from Dumka and demanding dowry and also of Rs. 2,30,000/- having been transferred directly into his account by the father of opposite party no. 2, the Court finds that, for the present, there being *prima facie* material, taking cognizance and issuing process against the petitioners no. 1 and 2, cannot be said to be infirm in law.

9. Coming to the prayer of petitioners no. 3 to 6, they being relatives of the husband of petitioner no. 1, against whom there is neither any direct allegation of demand of dowry nor torture and only vague and passing reference in general terms have been made, the Court finds that allowing the criminal proceeding to continue against them would be an abuse of the process of the Court.

10. For reasons aforesaid, the application, as far as petitioners no. 1 and 2 are concerned, stands dismissed.



11. With regard to petitioners no. 3 to 6, the application is allowed. The entire criminal proceeding arising out of Complaint Case No. 2789(C) of 2012 along with the order dated 08.11.2012 by which cognizance has been taken, as far as it relates to them, stand quashed.

(Ahsanuddin Amanullah, J)

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