

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.46241 of 2014

Arising Out of Case No.-653 Year-2013 Thana- NAWADAH COMPLAINT CASE District-
Nawada

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1. Puja Kumari daughter of Kripa Ram @ Kripa Shankar Prasad, resident of Village Kantani, P.s. Kauakol, district Nawada.
 2. Rambati Devi, wife of late Prasadi Ram
 3. Bhagwan Ram son of late Prasadi Ram, Both resident of Village Afardhih, P.S. Kauakol, district Nawada

... .. Petitioner/s

Versus

1. The State Of Bihar
2. Nisha Devi, wife of Shatrghan Prasad, resident of Village Afardhih, P.S. Kauakol, District Nawada, daughter of Charitra Singh, Village Birnama, P.S. Kashichak, district Nawada.

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Bipin Kumar, Advocate
For the State : Mr. Amit Kumar Rakesh, APP

CORAM: HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH
ORAL JUDGMENT

Date : 04-02-2019

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

2. Earlier on 29.11.2017, the application on behalf of
petitioner no. 1 was not pressed and, thus, it is restricted to
petitioners no. 2 and 3.

3. Despite service of notice on Opposite Party No. 2,
nobody appeared on her behalf when the case was taken up and
heard.

4. The petitioners no. 2 and 3 have moved the Court
under Section 482 of the Code of Criminal Procedure, 1973
(hereinafter referred to as the 'Code') for the following relief:



“ That this application is being filed on behalf of the petitioner for quashing of the order dated 25.10.2013 passed by the Court of S.D.J.M Nawada in connection with complaint case no. 653/2013 registered under section 147,148,149,307,498(A) of IPC. & 3/4 D.P. Act By which he has been pleased to take cognizance against the petitioner no. 2, 3 & Shatrughan Prasad under Section 498 A I.P.C. & 3/4 D.P. Act and also take cognizance u/s 494 I.P.C against Shatrughan Prasad & petitioner no. 1 namely Puja Kumari.”

5. The allegation against the petitioners and seven other family members is of torture, assault and demand of dowry. The petitioner no. 2 is the mother-in-law of Opposite Party No. 2 and petitioner no. 3 is the elder brother of the husband of Opposite Party No. 2.

6. Learned counsel for petitioners no. 2 and 3 submitted that there is general and omnibus allegation without there being any specific instance and, thus, the entire criminal case is false and fabricated. It was submitted that the complaint case was filed in the year 2013, i.e., almost five years of marriage during which there was no complain.

7. Learned A.P.P. submitted that the Court has found sufficient material to proceed against the petitioners. However, on a direct query of the Court as to the overall circumstances,



especially petitioners no. 2 and 3, being the mother-in-law and elder brother of the husband of Opposite Party No. 2, appearing to be just for exerting undue pressure, learned A.P.P. could not counter the same.

8. Having considered the facts and circumstances of the case and submissions of learned counsel for the parties, the Court finds that a case for interference has been made out. The petitioners no. 2 and 3, being the mother-in-law and the elder brother of the husband of Opposite Party No. 2, appear to have been made accused only in a routine manner to settle personal scores and to wreak vengeance against the family. The same, coupled with the fact, that despite service of notice on Opposite Party No. 2 nobody has appeared on her behalf, goes to show that there is no real material to proceed against the petitioners no. 2 and 3.

9. Further, the Court would refer to the decision of the Hon'ble Supreme Court in **State of Haryana v. Bhajan Lal** reported as **1992 Supplementary (1) Supreme Court Cases 335** where at paragraph no. 102, categories have been enumerated where the Court should exercise its inherent powers under Section 482 of the Code. The same reads as under:

“102. In the backdrop of the interpretation of the various relevant



provisions of the Code under Chapter XIV and of the principles of law enunciated by this Court in a series of decisions relating to the exercise of the extraordinary power under Article 226 or the inherent powers under Section 482 of the Code which we have extracted and reproduced above, we give the following categories of cases by way of illustration wherein such power could be exercised either to prevent abuse of the process of any court or otherwise to secure the ends of justice, though it may not be possible to lay down any precise, clearly defined and sufficiently channelised and inflexible guidelines or rigid formulae and to give an exhaustive list of myriad kinds of cases wherein such power should be exercised.

(1) Where the allegations made in the first information report or the complaint, even if they are taken at their face value and accepted in their entirety do not prima facie constitute any offence or make out a case against the accused.

(2) Where the allegations in the first information report and other materials, if any, accompanying the FIR do not disclose a cognizable offence, justifying an investigation by police officers under Section 156(1) of the Code except under an order of a Magistrate within the purview of Section 155(2) of the Code.



(3) Where the uncontroverted allegations made in the FIR or complaint and the evidence collected in support of the same do not disclose the omission of any offence and make out a case against the accused.

(4) Where, the allegations in the FIR do not constitute a cognizable offence but constitute only a non-cognizable offence, no investigation is permitted by a police officer without an order of a Magistrate as contemplated under Section 155(2) of the Code.

(5) Where the allegations made in the FIR or complaint are so absurd and inherently improbable on the basis of which no prudent person can ever reach a just conclusion that there is sufficient ground for proceeding against the accused.

(6) Where there is an express legal bar engrafted in any of the provisions of the Code or the concerned Act (under which a criminal proceeding is instituted) to the institution and continuance of the proceedings and/or where there is a specific provision in the Code or the concerned Act, providing efficacious redress for the grievance of the aggrieved party.



(7) Where a criminal proceeding is manifestly attended with mala fide and/or where the proceeding is maliciously instituted with an ulterior motive for wreaking vengeance on the accused and with a view to spite him due to private and personal grudge.”

10. The present case clearly falls under category 7 of the aforesaid judgment in the case of **Bhajan Lal** (supra) at paragraph no. 102.

11. Accordingly, the application is allowed. The entire criminal proceeding arising out of Complaint Case No. 653 of 2013, including the order dated 25.10.2013, by which cognizance has been taken by the court below, as far as it relates to the petitioners no. 2 and 3, stands quashed.

12. With regard to petitioner no. 1, the matter stands disposed off as not pressed.

(Ahsanuddin Amanullah, J)

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