

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.50395 of 2014

Arising Out of PS. Case No.-3392 Year-2012 Thana- PATNA COMPLAINT CASE District-
Patna

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Smt. Sindhu Srivastava @ Smt. Mala Sinha Wife of Shri Manoj Kumar Sinha
Resident of G.D. Mishra Path, New Patliputra Colony, P.S-Patliputra Dist.-
Patna

... .. Petitioner/s

Versus

1. State Of Bihar
2. Smt. Anita Sinha, wife of Shri Shailendra Srivastava, resident of A-A/7 New Patliputra Colony, P.S.- Patliputra, District- Patna, at present residing at C/O Sri Devendra Prasad Sinha, Manki Niketan, House No. 17, East Patel Nagar, Road No. 5, P.S.- Shastri Nagar, District- Patna- 23

... .. Opposite Party/s

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Appearance :

For the Petitioner/s	:	Mr.Sunil, Adv
For the Opposite Party/s	:	Mr.Ajay Kumar Sinha, Adv
For the State	:	Mr. Shyam Kumar Singh, APP

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CORAM: HONOURABLE MR. JUSTICE BIRENDRA KUMAR
ORAL JUDGMENT

Date : 24-06-2019

Heard learned counsel for the parties.

2. Opposite party No.2 Smt. Anita Sinha brought Complaint Case No.3392(C) of 2012 before the learned Chief Judicial Magistrate, Patna against her husband and relations of the husband alleging therein that she was being tortured by the inlaws for non-fulfillment of dowry demand.

3. By the impugned order dated 01.07.2013, the learned court below found a prima facie case against the petitioners also for offences under Sections 498A I.P.C. and under Section 4 of the Dowry Prohibition Act. By the same order, the



learned court below did not find a case to proceed with against co-accused-Raghwendra Srivastava, the elder brother of the husband, co-accused- Rajesh Srivastava, the younger brother of the husband and co-accused-Madhu Srivastava, the wife of Raghwendra Srivastava.

4. The statement of the complainant on oath would reveal that she was married with co-accused Shailendra Srivastava on 11.12.2009. After marriage, the named accused including those, who were not ordered to be proceeded with by the impugned order, went to the house of the complainant and demanded Rs.Five Lacs and T.V. etc. Petitioner-Smt. Sindhu Srivastava @ Smt. Mala Sinha had not demanded anything from anyone rather specific statement is against the accused person, who were not asked to face trial, to have demanded the dowry. It is further alleged that on 07.03.2011 the complainant had gone to appear in the examination after taking permission of the male members, however, when she returned on 17.03.2011, the mother-in-law refused to permit her entry in the house alleging that she had left the house without permission. The husband also denied company of the complainant without permission of his mother. The complainant is herself a Graduate in Home Science and having Diploma Degree in Fashion Designing. Husband of the complainant is an engineer.



5. Learned counsel for the petitioner submits that petitioner No.1-Kanhaiya Jee Srivastava and petitioner No.2-Smt. Indu Srivastava who are parents of the husband of the complainant are already dead now and only petitioner-Smt. Sindhu Srivastava @ Smt. Mala Sinha who is already a married woman has been falsely implicated in this case, for the reason that she is sister of the husband of the complainant. His contention that on the very same material, cognizance was not taken against some other co-accused referred above including the elder brother and younger brother of the husband as well as wife of one of the brothers of the husband and cognizance has been taken against petitioner- Smt. Sindhu Srivastava @ Smt. Mala Sinha without any material against her. As such, the criminal prosecution of the petitioner amounts to abuse of the process of the court. Petitioner has no concern with her paternal family now.

6. Learned counsel for the complainant contends that order dated 17.05.2019 would reveal that there was conciliation process between the parties and conciliation did not reach, as opposite party No.2 did not accept the proposal of the petitioner to be in her matrimonial house, as she was apprehending uncomfords and torture in the joint house. She was insisting for her separate unit in the form of share of her husband in the joint family



property. The aforesaid issue can be resolved only in presence of other co-sharers including the husband of opposite party no.2 in an appropriate proceeding.

7. So far the matter in hand is concerned, no prima facie material is there against petitioner-Smt. Sindhu Srivastava @ Smt. Mala Sinha, disclosed in the complaint petition, rather her case is on better footing to those accused who were not summoned to face trial. Hence, the criminal proceeding against petitioner-Smt. Sindhu Srivastava @ Smt. Mala Sinha stands quashed and this application stands allowed.

(Birendra Kumar, J)

Nitesh/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	26.06.2019
Transmission Date	26.06.2019

