

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.4760 of 2017

Arising Out of PS. Case No.-48 Year-2016 Thana- MAHILA P.S. District- Nawada

1. Mohammad Rizwan Alam
 2. Md. Imran Alam, Both sons of Md. Sanaullah, Resident of Road No.2, Gali No.7, Old Karimganj, Police Station- Civil Lines, District- Gaya
- Petitioner/s

Versus

The State Of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Alok Kumar, Adv.
For the Opposite Party/s : Mr.

CORAM: HONOURABLE MR. JUSTICE ADITYA KUMAR TRIVEDI
ORAL ORDER

3 21-06-2019 Heard learned counsel for the petitioner as well as learned APP.

2. Petitioners have asked for quashing of the FIR of Nawada (Mahila) PS Case No. 48/2016 instituted at the behest of wife of petitioner no.1, namely, Rubina Yasmeen registered under Section 498A, 494, 307, 379, 504, 506 IPC and under Section 3/4 of the Dowry Prohibition Act.

3. Learned counsel for the petitioner has submitted that the occurrence so alleged had taken place within the jurisdiction of Gaya while the case has been registered at Nawada. Also submitted that petitioner no.2, Md. Imran Alam on the alleged date and time of occurrence was in Saudi Arabia and to substantiate the same, Annexure-2 has been filed.

4. Also submitted that an informatory petition was



filed before institution of the case as the petitioners were apprehending that they will be victimized at the end of the informant. Also submitted that a petition for restitution of conjugal rights in accordance with Section 281 of the Mohammedan Act vide MTS Case No. 325/2016 (Annexure-4) has also been filed at the end of the petitioner no.1, and that being so, it is a fit case whereunder FIR (Nawada (Mahila) PS Case No. 48/2016) should be quashed.

5. On the other hand, learned APP opposed the same and submitted that the case is of the year 2016. The petition has been filed in the year 2017 and we are sailing in the year 2019. Further development, as has not been disclosed by the learned counsel for the petitioner, even then, there happens to be no occasion for the investigating officer to keep the investigation pending for such a long period and so police report might have been filed.

6. After going through the written report, it is evident that after duping and concealing the fact of first marriage, petitioner no.1 succeeded in getting his marriage with informant on 03.05.2014 and since thereafter, she has been put under mental as well as physical harassment in order to procure the dowry so demanded at their end. There happens to be detailed



description of the incidents which the informant faced while staying at her Sasural, even having an unsuccessful attempt over her life.

7. In *Gilly Gifford v. Michael Floyed Eshwar* as reported in *(2018) 11 SCC 205*, it has been observed by the Hon'ble Apex Court that there should not be interference in the investigation unless and until allegation on its face did not speak with regard to satisfaction of any of the ingredients of an offence. Furthermore, it has also been settled at rest that for that purpose the version of the defence or the document so filed at the end of the defence would not be taken into consideration as, those are the subject matter of investigation.

8. That being so, the instant petition lacks merit and is, accordingly, dismissed.

(Aditya Kumar Trivedi, J)

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