

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No. 5783 of 2015

Arising Out of P.S. Case No.-17 Year-2013 Thana- MAHILA P.S. District- Sitamarhi

1. Shashi Kant Kumar @ Shashikant, Son of Rajeshwar Rai.
2. Rajeshwar Rai, Son of Late Ram Narayan Rai.
3. Bindiya Devi, Wife of Rajeshwar Rai.
4. Sandeep Kumar @ Chhotu @ Sandeep Rai @ Sanjeev Kumar, Son of Rajeshwar Rai.
5. Sumitra Devi, Wife of Ajay Kumar.
6. Ranjana Kumari @ Ranjani Kumari Daughter of Rajeshwar Rai. All are resident of Village- Jhitkahiya, P.S-Bathnaha, District -Sitamarhi at present residing at Mela Road, Bhawedpur, Ward No. 21, P.S- Sitamarhi, District- Sitamarhi.
7. Ajay Kumar, Son of Raj Narayan Rai, resident of Village- Andauli, P.S.- Parihar, District- Sitamarhi.
8. Rani Kumari, Daughter of Satrugan Rai, resident of Village- Mahesh Farakpur, P.S.- Runi Saidpur, District- Sitamarhi.

... .. Petitioner/s

Versus

1. The State of Bihar
2. Anju Devi, Wife of Shashi Kant Kumar, Daughter of Ashok Rai, at present residing at Village- Rajopatti, P.S. -Sitamarhi, District- Sitamarhi.

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. Uday Kumar, Advocate
For the Opposite Party/s	:	Mr. Anil Kumar Sinha, Advocate
For the State	:	Mr. Akhileshwar Dayal, APP

CORAM: HONOURABLE MR. JUSTICE AHSANUDDIN
AMANULLAH

ORAL JUDGMENT

Date : 20-06-2019

Heard learned counsel for the petitioners; learned APP
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 dated 19.09.2014 passed by the Learned Sub-Divisional Judicial Magistrate, Sadar, Sitamarhi in Sitamarhi Mahila P.S. Case No. 17/13 (G.R. No. 2239/13) whereby and whereunder the learned Sub-Divisional Judicial Magistrate has been pleased to take cognizance against the petitioners for the offences under Sections 341, 323, 494, 498A, 504 of the Indian Penal Code and 4 of the Dowry Prohibition Act and further be pleased to direct the office to issue summons against the accused persons and fixed the date as 21.10.2014 for their appearance.”

3. The opposite party no. 2 was married to the petitioner no. 1 but later on things turned sour and she filed Sitamarhi Mahila P S Case No. 17 of 2013, alleging demand of dowry, torture, assault and attempt on her life.

4. Learned counsel for the petitioners submitted that there is general and omnibus allegation, at least against the petitioners no. 4 to 8, who have been made accused only because they are related to the husband of the opposite party no. 2 i.e., petitioner no. 1. It was submitted that the parties have compromised and the opposite party no. 2 has been paid Rs. 4 lakhs in terms of the order of the Court in Cr. Misc. No. 41396 of 2013 dated 20.08.2014, as directed by the Court while confirming



the bail of the petitioner no. 1. Learned counsel relied upon a decision of the Hon'ble Supreme Court in **Geeta Mehrotra v. State of U.P.** reported as **(2012) 10 SCC 741**, for the proposition that in absence of any specific allegation and *prima facie* case against co-accused, the proceedings are required to be quashed.

5. Learned APP submitted that the petitioners have demanded dowry and have tortured the opposite party no. 2.

6. Learned counsel for the opposite party no. 2 informs the Court that the opposite party no. 2 has again married.

7. Having considered the facts and circumstances of the case and submissions of learned counsel for the parties, the Court finds that all the petitioners cannot be given a clean chit, at least at the present stage. The opposite party no. 2 was physically handicapped and under such circumstances, she was married to the petitioner no. 1, who at the relevant time was unemployed. It is alleged that the father of the opposite party no. 2 was instrumental in the petitioner no. 1 getting a job in the Army. Thereafter, the allegation is that soon after getting a job, the petitioners started torturing the opposite party no. 2 for further dowry of Rs. 2 lakhs. This allegation appears to be quite plausible, reasonable and believable, especially in the present context of the society. The conduct of the petitioners, especially



petitioners no. 1, 2 and 3, who are husband, father-in-law and mother-in-law of the opposite party no. 2, that when the son was unemployed, they were ready to marry a handicapped girl due to various factors, which is open and known to the society, is quite natural. It is equally believable that once the petitioner no. 1 became employed, suddenly the petitioners became wiser and aware that he being in employment was entitled to certain dowry as is the general custom prevailing in the society today. In this context, the Court would refer to the allegation that there was taunt hurled at the opposite party no. 2 for her being handicapped. Thus, the petitioners pointing out to the physical disability of the opposite party no. 2 and for keeping her in the matrimonial home demanding Rs. 2 lakhs, in the considered opinion of the Court does not appear to be an exaggeration or false. The Court would also look at the issue from another angle. Had there been no truth in the allegations, there is no reason whatsoever as to why a physically handicapped girl after marriage would herself not live in the matrimonial home and would desert her husband moreso, when she was married and the husband was unemployed and after employment when she was more secure, she would leave the matrimonial home. This aspect has also weighed with the Court while judging the truthfulness of the allegation. When, under such



circumstances, a physically handicapped girl is married to an unemployed youth because of a physical disability since no employed youth at the relevant time would come forward to marry her and when the husband gets a job, she cannot be expected to leave the matrimonial home. There is no plausible logic or reason for this. Thus, for her to have left the matrimonial home itself speaks volumes with regard to the adverse condition which the petitioners may have created being the family members of the husband. As far as the allegations are concerned, stand taken on behalf of the petitioners that it is general and omnibus and may be covered by the decision of the Hon'ble Supreme Court in **Geeta Mehrotra** (supra) is concerned, cannot be accepted as in the present case in view of the discussions made hereinabove, there appears to be truthfulness in the allegations made by opposite party no. 2. However, as the petitioner no. 5 is the married sister and the petitioner no. 7 is her husband living in another village in the matrimonial home, the Court feels inclined to show indulgence to them.

8. In view of the discussions made hereinabove, the Court finds that the facts and circumstances of the present case are distinguishable from the facts and circumstances in the case before the Hon'ble Supreme Court of **Geeta Mehrotra** (supra). Thus, the



said decision would not help the remaining petitioners no. 1, 2, 3, 4, 6 and 8 in the present case.

9. Accordingly, the application is allowed as far as petitioners no. 5 and 7 are concerned. The entire criminal proceeding arising out of Sitamarhi Mahila PS Case No. 17 of 2013 (GR No. 2239 of 2013), pending before the Court below at Sitamarhi, including the order dated 19.09.2014 by which cognizance has been taken, as far as it relates to the petitioners no. 5 and 7, stands quashed.

10. With regard to the rest of the petitioners, the application stands dismissed.

(Ahsanuddin Amanullah, J.)

P. Kumar

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