

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.6337 of 2015

Arising Out of PS. Case No.-79 Year-2013 Thana- PARSABAZAR District- Patna

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1. Arjun Singh son of Late Sheolal Singh
 2. Madhuri Devi, wife of Arjun Singh
 3. Raj Kumar Singh, son of Arjun Singh
 4. Pinki Devi wife of Raj Kumar Singh
All are residents of Village Bhergawan, P.O. Jatia, P.S. Gaurichak District Patna. At present Beldarichak, P.S. Parsa Bazar, District Patna
 5. Shiv Kumar S/o Arjun Singh resident of Village Bhergawan, P.O. Jatia, P.S. Gaurichak District Patna. At present Beldarichak, P.S. Parsa Bazar, District Patna

... .. Petitioner/s

Versus

1. The State Of Bihar
2. Riya Sinha D/o Sheo Kumar Village-Mahulli, P.S. -Parsabazar, Dist.-Patna
3. Senior Superintendent of Police, Patna

... .. Opposite Party/s

Appearance :

For the Petitioner/s :	Mr. Lakshmi Kant Sharma, Advocate
For the Opposite Party/s :	Md. Ansural Haque, App
For Opposite Party No.2 :	Mr. Vibhuti Ranjan Sonvadra, Advocate

CORAM: HONOURABLE MR. JUSTICE BIRENDRA KUMAR
ORAL JUDGMENT

Date : 11-07-2019

On the last occasion the parties expressed their desire for conciliation. Hence, by order dated 09.05.2019 co-accused Shiv Kumar, who is husband of Opposite Party No.2 Riya Sinha was also impleaded as petitioner No.5 though he was not petitioner in this quashing matter.

2. On persuasion of the Court, the spouse had gone together. They are physically present in Court. Wife submits that she is happy in her in-laws house. However, the husband is not ready to keep her on the pretext that the bouncers of the wife always



attempt to assault him.

3. This application under Section 482 Cr.P.C. is for quashment of order dated 03.10.2013 and 20.01.2014 passed by the Judicial Magistrate, 1st Class, Patna, in connection with Parsa Bazar P.S. Case No.79 of 2013, corresponding to G.R. No.2533 of 2013, whereby cognizance has been taken for the offences under Sections 498A/34 of the Indian Penal Code and Sections 3/4 of the Dowry Prohibition Act against petitioner Raj Kumar Singh and co-accused Shiv Kumar, who is husband of the informant, and is not petitioner in this quashing matter though for the purpose of settlement of dispute he was added on the order of the Court as petitioner No.5. However, he does not want quashment of proceeding against him.

4. At the time of cognizance order aforesaid, investigation against petitioner Arjun Singh, petitioner Madhuri Devi and Petitioner Pinki Devi was pending. On submission of charge sheet against these petitioners again cognizance order was passed against them on 19.04.2014 which is also under challenge.

5. According to complaint petition, the complainant was married on 25.02.2011 with accused No.1 Shiv Kumar. When she went to her sasural, the accused persons started physical and mental torture against her for non-fulfillment of demand of rupees ten lacs to purchase a tractor. On expression of inability to pay such a huge amount, the accused persons started commission of assault and other torture against her. Further allegation is that on one



occasion the accused persons asked her to undergo forceful abortion for which she was not ready and for that also she was being abused and assaulted. On 14.04.2014 she was finally expelled from the matrimonial house.

6. Learned counsel for the petitioner submits that by supplementary affidavit the petitioner have brought on the record the document of family partition between the husband and his full brother on 09.05.2012. As such, petitioner Nos.3 and 4 are already separate from the husband of the complainant and have no concerned with their affairs. Moreover, the allegation is general and omnibus against the petitioners and these days there is growing tendency to rope all the family members whenever dispute arises between the spouse.

7. The case-diary would reveal that other witnesses have also supported the prosecution allegation against the petitioners. Subsequent partition of property with the brother of the husband cannot be considered to disbelieve the prosecution allegation especially when the law does not exonerate the criminal liability only due to partition between the co-accused.

8. Section 498A of the Indian Penal Code reads as follows:

“498A. Husband or relative of husband of a woman subjecting her to cruelty.- Whoever, being the husband or the relative of the husband of a woman, subjects such woman to cruelty shall be punished with imprisonment for a



term which may extend to three years and shall also be liable to fine.”

The explanation to the section explains the term cruelty.

9. Since the petitioners are relatives of the husband and there is allegation of treatment with cruelty to the informant for non-fulfillment of their illegal demand and the allegation is supported by other witnesses also. Prima facie material is there to proceed against the petitioners also. The law does not say so that in each and every case false implication should be presumed. That can be meticulously examined in course of the trial.

10. Hence, there is no merit in this application. Accordingly, this application stands dismissed.

(Birendra Kumar, J)

Mkr./-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	15.07.2019
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