

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.49707 of 2014

Arising Out of Case No.-93 Year-2011 Thana- SIWAN COMPLAINT CASE District- Siwan

1. Shailendra Kumar @ Kanchan Kumar son of Sri Mohan Ram, resident of village and P.S. - Pachrukhi, District- Siwan.
2. Renu Devi @ Renu Mallik daughter of Mohan Ram, wife of Ajay Malik, resident of S.D.O. Court Road, Hajipur , P.O. and P.S. - Hajipur, District - Vaishali.

... .. Petitioner/s

Versus

1. The State Of Bihar.
2. Asha devi @ Saroj Devi wife of Shailendra Kumar, daughter of Jang Bahadur Basphore At Present resident of Village - Sakra, P.O.-Shivpur, Sakra, P.S. - Asanw, District- Siwan.

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. Sanjeev Nikesh with Mr. Rajeev Ranjan, Advocates
For the State	:	Mr. Jharkhandi Upadhyay, APP
For the O.P. No. 2	:	Mr. Irshad Ahmad Kha, APP

CORAM: HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH
ORAL JUDGMENT

Date : 13-03-2019

Heard learned counsel for the petitioner; learned A.P.P.
for the State and learned counsel for the opposite party no. 2.

2. Though, there were two petitioners initially in the writ petition but on behalf of petitioner no. 1, the application has been withdrawn earlier. Thus, the same is restricted to petitioner no. 2, Renu Devi @ Renu Mallik.

3. The petitioners have moved the Court under Section 482 of the Code of Criminal Procedure, 1973 for the following relief:



“That this application is being filed for quashing the impugned cognizance order dated 11.03.2011 passed by the learned S.D.J.M. Siwan in Tr. No. 3587 of 2011 (old), now Tr. no. 2263/2014 (New) arising out of Complaint Case No. 93 of 2011 by which he took cognizance against the petitioners for the alleged offence under sections 498 (A), 406 of Indian Penal Code as well as also under section 3 and 4 of D.P. Act and ordered to issue summons against the petitioners.”

4. The allegation against the petitioner no. 2 and other members of the family in the complaint case filed by the opposite party no. 2, who is the wife of the brother of petitioner no. 2, is general and omnibus of demand of dowry, torture and abuse. Petitioner no. 1 is the husband.

5. Learned counsel for the petitioner no. 2 submitted that she is the married sister of the husband opposite party no. 2 and living separately with her husband at a different place. It was submitted that there is neither any specific allegation nor any overt act has been attributed to her.

6. At this juncture, on a query of the Court to learned counsel for the opposite party no. 2 as to why the petitioner no. 2 should be put to harassment of a trial as nothing specific has been alleged against her, he fairly submitted that the petition on her behalf be allowed. However, he submitted that due to stay of the entire criminal proceeding, the matter is still pending. Learned counsel submitted that the husband of the opposite party no. 2



should not be allowed to misuse the process of the Court by avoiding to face trial.

7. Learned A.P.P. submitted that the complaint does not disclose any role of the petitioner no. 2. He further submitted that once the opposite party no. 2 herself is not opposing the present application, the Court may pass appropriate orders.

8. Having considered the facts and circumstances of the case and submissions of learned counsel for the parties, the application on behalf of petitioner no. 2, Renu Devi @ Renu Mallik is allowed. The entire proceeding arising out of Complaint Case No. 93 of 2011 [Tr. No. 3587 of 2011 (Old)/Tr. No. 2363 of 2014(New)], including the order dated 11.03.2011, by which cognizance has been taken, as far as it relates to petitioner no. 2, namely Renu Devi @ Renu Mallik, stand quashed.

9. It goes without saying that the interim order of stay of further proceeding, as far as it relates to the other accused, stands vacated.

(Ahsanuddin Amanullah, J)

Anjani/-

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