

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No. 51783 of 2014

Arising Out of Complaint Case No.-44 Year-2013 Thana- GAYA COMPLAINT CASE
District- Gaya

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1. Fazlur Rahman, Son of Late Abdul Gaffoor.
 2. Mastura Khatoon @ Mastura Banu, Wife of Fazrul Rahman.
Both Resident of H-3, 2nd Floor, Block-D, Mohalla - Govindpur, Main Road
Kaveri Nagar, Police Station - R.T.Nagar, Bangalore.

... .. Petitioner/s

Versus

1. The State of Bihar
2. Nusrat Sufiya Khatoon, Wife of Mujibur Rahman, Daughter of Jamshed
Azam Khan, Resident of H-3, 2nd Floor, Block-D. Mohalla- Govindpur,
Main Road Kaveri Nagar, Police Station - R.T. Nagar, Bangalore at present
resident of Jhikatiya Salis, Police Station - Kothi, District – Gaya.

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr.Wasi Ahmad Khan and Mr. R. P. N. Tiwary, Advocates
For the State	:	Mr. Jharkhandi Upadhyay, A.P.P.

**CORAM: HONOURABLE MR. JUSTICE AHSANUDDIN
AMANULLAH**

ORAL JUDGMENT

Date : 03-04-2019

Heard learned counsel for the petitioners and learned
A.P.P. for the State.

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 19.10.2013 passed in Complaint
Case No. 44/2013 by Sri Nitish Kumar, Judicial
Magistrate, 1st Class, Sherghati, Gaya whereby the
learned Court below has taken cognizance against*



the petitioners under section 498(A)/34 of the Indian Penal Code.”

3. The allegation against the petitioners and three others is of torture, assault and demand of dowry. The petitioners are the father-in-law and mother-in-law of the opposite party no. 2-complainant.

4. Learned counsel for the petitioners submitted that their son is working in Bahrain and the opposite party no. 2 does not want to live in the matrimonial home. It was submitted that they have no role in such dispute between the husband and the wife and have been made accused without any genuine reason. At this juncture, on a specific query of the Court that when their son was working in Bahrain and not keeping the wife i.e., opposite party no. 2 with him then why the opposite party no. 2 was not being kept with them in their house, which was the matrimonial home of the opposite party no. 2, as it was their duty to ensure that their daughter-in-law lived in the matrimonial home with full dignity, honour and security, learned counsel had no answer. Moreover, the Court finds that there is not even a whisper in the entire pleadings that the petitioners being the father-in-law and mother-in-law were ready to keep the opposite party no. 2 in the matrimonial home with full dignity, honour and security.



5. Learned A.P.P. submitted that the petitioners are responsible for ensuring that the opposite party no. 2 is allowed to live in the matrimonial home with full dignity, honour and security.

6. Having considered the facts and circumstances of the case and submissions of learned counsel for the parties, the Court finds no merit in the present application. The matrimonial home of the opposite party no. 2 is admittedly the house at Bangalore, where the petitioners live. Their son, who is the husband of the opposite party no. 2 works in Bahrain and it is not a case that he has a Visa to keep his family (wife) with him at Bahrain. Thus, the obvious and only import is that the opposite party no. 2 is required to be kept in the matrimonial home i.e., the home where the parents of the husband of the opposite party no. 2 resides, which is at Bangalore. A girl after marriage is not supposed to live with her parents only because the husband is working abroad. It is the duty of the husband to either keep the wife with him or at a place which belongs to him or his family. Thus, the onus is on the husband of the opposite party no. 2 as well as the in-laws to ensure that the opposite party no. 2 is allowed to live in the matrimonial home, which in the present case is the place/house where the petitioners reside as their son is working at Bahrain and



not having Visa for keeping his family. The responsibility has to be taken by the petitioners. At the cost of repetition, when there is no stand on behalf of the petitioners with regard to keeping the opposite party no. 2, who is their daughter-in-law with them with full dignity, honour and security, the Court finds that the allegations made against them, at this stage, cannot be said to be false or frivolous. Thus, the cognizance taken by the Court below cannot be said to suffer from any legal infirmity.

7. For reasons aforesaid, the application stands dismissed.

(Ahsanuddin Amanullah, J.)

P. Kumar

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