

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.328 of 2017

Arising Out of PS. Case No.-383 Year-2016 Thana- PATNA COMPLAINT CASE District-
Patna

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1. MD.NOOR ALAM @ MD. ALAM @ NOOR ALAM and ORS son of Md. Muslim,
 2. Md. Muslim, son of Late Saheb Ali Miyan,
 3. Nurjahan, wife of Md. Muslim,
 4. Md. Mustak, son of Md. Muslim,
 5. Musrat, son of Md. Mustak,
 6. Md. Aslam, son of Md. Muslim,
 7. Asgari, wife of Md. Aslam, null
 8. Rizwana, wife of Md. Mubarak,
 9. Md. Mubarak, son of Md. Abbas,
 10. Farzana, wife of Faiyaz,
 11. Md. Faiyaz, son of Abdul Sattar,
 12. Shabna, wife of Md. Rizwan, All resident of Village - Bargaw, Police Station - Patthepur, District - Gaya Bihar .

... .. Petitioner/s

Versus

1. State Of Bihar and Anr
2. Nusrat Praveen, wife of Md. Noor Alam @ Md. Alam at present daughter of Md. Shamim, Resident of village - Dujara Pahalwan Ghat, Khaja Gali, Police Station - Budha Colony, District - Patna.

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. Binod Kumar-Advocate Mr. Sanjay Kumar-Advocate
For the Opposite Party/s	:	Mr. Sanjiv Sharan-Advocate
For the State	:	Mr. Surendra Kumar-A.P.P.

CORAM: HONOURABLE MR. JUSTICE ADITYA KUMAR TRIVEDI
ORAL ORDER

4 18-01-2019 Heard learned counsel for the petitioners as well as
learned Additional Public Prosecutor.

Though, it happens to be unfortunate for the family as on account of acrimony so persisting, the family life of both the spouse gone ruined. After filing of instant case, the husband also indulged to seal his interest as well as interest of other family members by way of launching a case. Be that as it may, the facts of the complaint petition



as well as from the Solemn Affirmation, it is evident that while complainant/ opposite party no.2, was staying with her husband at Himachal Pradesh, she was tortured at the end of her husband, Dewar, Nandosi and for that, she had approached before Mahila Aayog, where the matter was sorted out, whereupon complainant rejoined the society of her husband, but faced same kind of treatment, even at the end of mother-in-law, sister-in-law, whereupon instant prosecution has been launched wherein, after examination of the witnesses during course of an inquiry under Section 202 of the Cr.P.C. vide order dated 03.08.2016, the learned S.D.J.M., Patna has summoned all the petitioners to face trial for an offence punishable under Section 498A of the I.P.C. and Section 3/4 of the D. P. Act relating to Complaint Case No.383C of 2016.

Heard learned counsel for the petitioners, Opposite Party No.2 as well as learned Additional Public Prosecutor.

In *Varala Bharath Kumar and another vs. State of Telangana and another reported in 2018 CRI.L.J. 431*, it has been held:-

“8. We are conscious of the fact that, [Section 498A](#) was added to [the Code](#) with a view to punish the husband or any of his relatives, who harass or torture the wife to coerce her or her relatives to satisfy unlawful demands of dowry. Keeping the afore-mentioned object in mind, we have dealt with the matter. We do not find any allegation of subjecting the complainant to cruelty within the meaning of [Section 498A](#) of



IPC. The records at hand could not disclose any willful conduct which is of such a nature as is likely to drive the complainant to commit suicide or to cause grave injury or danger to life, limb or health (whether mental or physical) of the complainant. So also, there is nothing on record to show that there was a demand of dowry by the appellants or any of their relatives, either prior to the marriage, during the marriage or after the marriage. The record also does not disclose anywhere that the husband of the complainant acted, with a view to coerce her or any person related to her to meet any unlawful demand of any property or valuable security.”

Following the aforesaid principle when the material having placed on record has properly been thrashed out, it is evident that apart from Md. Noor Alam @ Md. Alam @ Noor Alam (husband), Shabna (Nanad), Asgari (Jethani), Nurjahan (mother-in-law), Abdul (Dewar) and Md. Mubarak (Nandosi) also borrow specific allegation and that being so, prosecution against them is found in accordance with law.

That being so, instant petition relating thereto, sans merit and is accordingly, dismissed.

Stay of proceeding so granted against them vide order dated 13.08.2018 is hereby vacated.

So far remaining petitioners, namely Md. Muslim, Md. Mustak, Musrat, Md. Aslam, Rizwana, Farzana, Md. Faiyaz are concerned, considering absence of specific allegation as well as the



relationship with the husband, the order impugned to their interest is hereby set aside.

Consequent thereupon, instant petition to the extent of their interest is allowed.

(Aditya Kumar Trivedi, J)

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