

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.3381 of 2017

Arising Out of PS. Case No.-20 Year-2015 Thana- MAHILA P.S. District- Rohtas

-
1. Sujeet Kumar Son of Kameshwar Prasad Singh,
 2. Basanti Devi, Wife of Kameshwar Prasad Singh.
 3. Kameshwar Prasad Singh, S/o Late Ramdev Singh.
All are resident of Village- Nawadih, P.S. Nokha, District- Rohtas at Present
residing At Street No. 2, Near Scotis Central School, Gaurakshani, P.S.
Sasaram Model District- Rohtas.
 4. Rubi Devi, W/o Anjani Kumar, Resident of Graphic Area University, P.S.
Dehradun, District- Dehradun.
 5. Rita Devi, D/o Kameshwar Prasad Singh, W/o Arun Kumar Singh, resident
of Mohalla- Lavkush Nagar, P.S. Bhopal and District Bhopal.

... .. Petitioner/s

Versus

1. State Of Bihar and Anr
2. Priyanka Kumari, Wife of Sujeet Kumar, D/o Vijay Kumar Rai, resident of
Village Bhaluni, P.O. Ghordihan, P.S. Kargahar, District- Rohtas at present
C/o Prof. Awadhesh Singh, Resident of Gaurakshani Sabji Mandi, East of
Shiv Mandir, P.S. Sasaram Model, District- Rohtas.

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. Santosh Kumar Singh, Adv.
For the Informant	:	Mr. Babu Nandan Prasad, Adv.
For the Opposite Party/s	:	Mr. Nityanand Tiwary, APP

CORAM: HONOURABLE MR. JUSTICE ADITYA KUMAR TRIVEDI
ORAL ORDER

4 04-04-2019 Supplementary affidavit has been filed on behalf of

petitioners averring that petitioner no. 2 Basanti Devi wife of

Kameshwar Prasad Singh is dead on account thereof, instant

proceeding against her is dropped by way of deleting her.

Heard, learned counsel for the petitioners, learned
counsel for the Opposite Party No. 2 as well as learned A.P.P.

From the written report as well as from Annexure-2



plaint of matrimonial case No. 68/15, it is apparent that informant/wife of petitioner no. 1/O.P. No. 2 is suffering from some sort of physical deformity and on account thereof, she is unable to bear a child. There happens to be an allegation at the end of O.P. 2/informant that in that pretext while she had come to appear in B.P.S.C examination at Muzaffarpur, and returned therefrom was not allowed by her husband, father-in-law and mother-in-law to stay further, forced her to return back to her Maika. By such activity, her belonging, ornaments remained with them. Her Naiharwala tried to negotiate and during course thereof, the accused persons insisted upon to have marriage of her husband with younger sister which was not accepted by her family members and in the aforesaid background, Bhabhi of her husband (Gotni) Rubi Devi, sister-in-law Rita Devi began to abuse over mobile. Her husband has then offered that if you intend to come, then in that circumstance, you will have to pay Rs. 1,50,000/- additionally. He had also threatened that in case a legal proceeding is initiated, he will commit suicide and implicate all the family members.

After registration of Rohtas Mahila P.S. Case No. 20/15 investigation was taken up and after concluding the same, charge-sheet was submitted, whereupon vide order dated



08.02.2016 the learned lower court has summoned the petitioners to face trial for an offence punishable under Section 498(A), 323, 341, 504, 506, 406 and 34 of the Indian Penal Code, 3/4 of the Dowry Prohibition Act which happens to be the order impugned.

It has been submitted at the end of the learned counsel for the petitioners that it happens to be out and out a malicious prosecution. True it is that there happens to be bitterness but, that was not at the end of the petitioners rather at the end of the prosecution party who, during course of negotiation concealed the deformity which the petitioner no. 1/husband could traced out during course of staying and on that very score, a matrimonial suit for annulment of marriage has been filed. After coming to know about the same this case has been filed.

On the other hand learned counsel for the informant has submitted that there happens to be specific disclosure at the end of the O.P. no. 2 that at the time of negotiation, the physical deformity of the O.P. no. 2 had already been disclosed to the petitioner no. 1/husband.

This controversial issue is to be adjudicated upon only during trial. In the aforesaid background having been settled at rest that whenever there happens to be specific allegation



against any family members then, in that circumstance, the order of cognizance against that person would not be quashed. Otherwise, vagueness happens to be a good ground moreover, when the parties are at loggerheads and further their conduct appear to be revengeful.

In K. Subba Rao and Others Vs. State of Telangana reported in (2018) (14) SCC page 452

“5. A perusal of the charge-sheet and the supplementary charge-sheet discloses the fact that the appellants are not the immediate family members of the third respondent/husband. They are the maternal uncles of the third respondent. Except the bald statement that they supported the third respondent who was harassing the second respondent for dowry and that they conspired with the third respondent for taking away his child to the U.S.A., nothing else indicating their involvement in the crime was mentioned. The appellants approached the High Court when the investigation was pending. The charge-sheet and the supplementary charge-sheet were filed after disposal of the case by the High Court.

6. Criminal proceedings are not normally interdicted by us at the interlocutory stage unless there is an abuse of the process of a court. This Court at the same time, does not hesitate to interfere to secure the ends of justice. See State of Haryana v. Bhajan Lal reported in (1992) Supp (1) SCC 335 : 1992 SCC(Cri) 426. The courts should be careful in proceeding against the distant relatives in crimes pertaining to matrimonial disputes and dowry deaths. The relatives of the husband should not be roped in on the basis of omnibus allegations unless specific instances of their involvement in the crime are made out. See Kans Raj v. State of Punjab and Kailash Chandra Agrawal v. State of U.P. reported in (2014) 16 SCC 551 : (2015) 3 SCC (Cri) 536.”



In the aforesaid background when the materials have been gone through, the petitioner no. 1 Sujeet Kumar/husband and petitioner no. 3 Kameshwar Prasad Singh/father-in-law properly been identified carrying specific allegation whereupon, this petition relating to them is dismissed.

So far petitioners Rubi Devi and Rita Devi are concerned, the order of cognizance relating to them are set aside. Consequent thereupon, petition is allowed to the extent of their interest.

(Aditya Kumar Trivedi, J)

vinita/-

U		T	
---	--	---	--

