

IN THE HIGH COURT OF JUDICATURE AT PATNA

CRIMINAL MISCELLANEOUS No.1444 of 2017

Arising Out of PS. Case No.-155 Year-2015 Thana- BODHGAYA District- Gaya

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1. Ali Raja @ Ali Raja Khan @ Bechu Khan and Anr son of Late Sakur Khan,
 2. Md. Arman Khan @ Arman Khan, son of Ali Raja @ Ali Raja Khan @ Bechu Khan Both resident of Village- Rampur, P.S.- Ariyari, District- Shekhpura.

... .. Petitioner/s

Versus

1. The State Of Bihar.
2. Fatma Nurain, D/o Late Kamal Khan, resident of Village- Cherki, P.S.- Cherki, Dist- Gaya.

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Raj Kishor Prasad, Adv.
For the Opposite Party/s : Smt Sangeeta Sharma, APP

CORAM: HONOURABLE MR. JUSTICE ADITYA KUMAR TRIVEDI
ORAL ORDER

3 11-04-2019 Heard learned counsel for the petitioners, learned APP along with learned counsel for the O.P. No.2.

Informant who happens to be the wife of Reyaz Khan @ Raju Khan, son of petitioner no.1 and brother of petitioner no.2 alleged that during course of her stay at her Sasural she was ruthlessly treated at the end of all the accused as she failed to honour the demand having made by her husband Reyaz Khan, mother-in-law Firoza Khatoon, father-in-law Ali Raja



Khan, sister-in-law Nargis Khatoon, Juhi Khatoon, Debar Azad Khatoon, Arman Khan. It has also been disclosed that her parents were not in a position to give four wheeler whereupon, she has been kicked out from her Sasural and for the last five years she has been forced to stay at her Maika without any prospect. She has also filed petition before the women commission.

Learned counsel for the O.P. No.2 has shown different orders relating to Cr. Misc. No.58684/2017. After perusal of the same, it is evident that times without number husband undertook that he is going to restore the marital relationship by bringing the wife, even then disowned his own undertaking whereupon matter is still pending before the High Court.

The learned counsel for the petitioners has submitted that they are separate in mess and business from the husband and on account thereof, it happens to be a fit case wherein order impugned relating to the petitioners should be quashed. Apart from this, it has also been pleaded that petitioners carrying omnibus, vague allegation which also justify their prayer.

On the other hand, the learned APP along with learned counsel for the O.P. No.2 has submitted that during course of



investigation, the I.O. had collected sufficient material whereupon keeping the investigation pending against other submitted charge sheet against the petitioner. From the order impugned, it is evident that the learned lower court after tracing out sufficient material in the case diary, vide order dated 02.11.2015 cognizance of an offence has been taken punishable under Section 498A of the IPC as well as $\frac{3}{4}$ of the D.P. Act against the petitioners.

True it is that there happens to be no specific allegation attributed against the petitioners that does not mean that there would not be applicability of Section 34 or 149 of the IPC more particularly when the offence under Section 498A of the IPC is not the one day affair rather it continues for days, months, years together and so vary case to case. Ultimately it happens to be illegal deprivation of the victim /wife from her marital obligation, forcing her to stay away from her matrimonial home and that happens to be reason behind recording of finding by the Apex Court in **Rupali Devi vs. State of Uttar Pradesh & Ors. (Cr. Appeal No.71 of 2012) order dated 09.04.2019** allowing institution of prosecution at the place where wife resides as, found to be in consequence thereof, so identifiable under Section 179 of the Cr.P.C.



Consequent thereupon, instant petition sans merit and
is accordingly dismissed.

(Aditya Kumar Trivedi, J.)

Prakash Narayan

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