

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.9509 of 2018

Arising Out of PS. Case No.-193 Year-2017 Thana- SABAUR District- Bhagalpur

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1. Ashok Mishra and Ors S/o Mahidhar Mishra Father In Law,
 2. Sarita Devi W/o Ashok Mishra (Mother In Law),
 3. Guriya Kumari D/o Ashok Mishra (Nanad),
 4. Ashish Kumari D/o Ashok Mishra (Dewar), S/o Ashok Mishra,
 5. Abhishek Mishra @ Abhishek Kumar Mishra S/o Ashok Mishra (Husband),
- All are R/o Sabour, P.S.- Sabour, District- Bhagalpur.

... .. Petitioner/s

Versus

1. The State Of Bihar and Anr
2. Pragya Bharti W/o Abhishek Mishra D/o Pravin Thakur , R/o Saidpur, P.S.- Gopalpur, District- Bhagalpur.

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Anupa Nand Jha
For the Opposite Party/s : Mr. Sujeet Kr. Singh, APP

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.

All the petitioners who happen to be husband as well as in-laws on account of having been summoned to face trial for an offence punishable under Section 498A/34 of the IPC 3/4 of the Dowry Prohibition Act vide order dated 28.10.2017 passed by ACJM, Bhagalpur in connection with Sabour P.S. Case no.193/2017, G.R. No.3103/2017 have preferred instant petition on the ground (a) the prosecution party have earlier indulged in criminal activity with them and for that Complaint Petition No.1160/2017 has been filed as, the police failed to register a case (b) there happens to be no specific allegation and so, the order of cognizance happens to be bad, (c) At the time of consideration of prayer for bail wife was noticed and after



appearance, the differences were directed to be sorted out by mutual conversation which she deliberately avoided.

The learned Additional Public Prosecutor while opposing the prayer has submitted that from Annexure-2, Complaint Petition No.1160/2017 filed by the husband, petitioner no.5 just after institution of the present case, is sufficient to draw an inference with regard to nefarious activities of the petitioners whereupon, the order impugned did not attract interference.

The O.P./wife of petitioner no.5, whose marriage was solemnized on 11.05.2014 during course of stay at her Sasural was subjected to torture over non-fulfillment of demand of dowry by her husband, father-in-law, mother-in-law, brother-in-law and sister-in-law (all the petitioners) and further, event has also been disclosed whereunder the mother-in-law and sister-in-law attempted upon her life and in likewise manner, her husband also tried to eliminate her by sprinkling K. oil as she was unable to borrow from her maika to fulfill demand of dowry raised by them. In order to restore harmony, her father had purchased Activa Scooty on 24.09.2016 and handed it over to the accused persons even then, she continued to face cruelty at their end as they failed to saturate the demand. Lastly, on 23.05.2017 her father came and took her away in order to save her life. After spending sometime, when on 08.07.2017 she came at her Sasural, she was not allowed to enter into. All persuasion failed. Then thereafter, the local police station has been informed



immediately. All the ornaments and other belongings have already been kept by the accused persons. From Annexure-2, it is evident that two days after institution of this case, the petitioner no.5 has filed complaint case showing the date of occurrence two years prior that means to say 08.07.2015. It is further evident from the petition that there happens to be no denial at the end of the petitioners with regard to purchase and handing over of Activa Scooty by the father of the O.P. No.2 for a consideration of Rs.71,000/- on 24.09.2016. Furthermore, allegation on its face is found against the petitioners/accused. In the aforesaid facts and circumstances of the case, instant petition lacks merit whereupon, is dismissed.

The stay granted vide order dated 18.09.2018 stands vacated.

(Aditya Kumar Trivedi, J.)

Prakash Narayan

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