

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.77954 of 2019

Arising Out of PS. Case No.-402 Year-2018 Thana- RAMPUR District- Gaya

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1. Chinta Devi @ Shanti Devi, Female, aged about 53 years, W/o Ramjee Rajak
 2. Satyajeet Kumar, Male, aged about 33 years, S/o Ramjee Rajak, both R/o village- Mali Bagicha, Gewalbiga, P.S.- Rampur, District- Gaya

... .. Petitioner/s

Versus

1. The State of Bihar
2. Prachi Ragini, Female, aged about 27 years, W/o Satyajeet Kumar and daughter of Dr. Birendra Kumar, Resident of Shastri Nagar, Jail Road, P.S.- Rampur, District- Gaya

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Sanjeev Kumar, Advocate
For the Opposite Party/s : Mr.Damodar Prasad Tiwary

CORAM: HONOURABLE MR. JUSTICE ANJANI KUMAR SHARAN
ORAL ORDER

2 02-12-2019 Heard learned counsel for the petitioners and the learned
A.P.P. for the State.

2. The present application has been filed for quashing the order dated 16.05.2019 passed by Chief Judicial Magistrate, Gaya in connection with Rampur P.S. Case No.402 of 2018, whereby cognizance has been taken against the petitioners for the offences under Sections 498(A), 323/34 of the Indian Penal Code and Sections 3/4 of Dowry Prohibition Act.

3. The prosecution case is based upon the written report of Prachi Ragini submitted before S.H.O. of Rampur Police Station which discloses the fact that her marriage was solemnized on 03.12.2017 with Satyajeet Kumar according to Hindu rites and



rituals. At the time of marriage, her father gave twenty lakh rupees and accessories to her in-laws family. After one or two months of marriage, her husband started assaulting her after taking drink. Her husband also demanded her twenty lakh rupees a dowry. In the meantime, she became pregnant but her husband did not medically treated her. On 11.10.2018, she was ousted from the house. Anyhow, she came to her parents' house and medically treated at A.N.M.C.H., Gaya.

4. On the basis of said written report, the S.H.O. of Rampur Police Station registered a Rampur P.S. Case No.402 of 2018 on 25.10.2018 under Sections 498(A), 313, 323/34 I.P.C. and 3/4 Dowry Prohibition Act against the petitioners and investigation proceeded. After completion of investigation, the I.O. has submitted charge sheet against the petitioners and father-in-law of informant Ramjee Rajak on 28.02.2019 being Charge Sheet No.55 of 2019 under Sections 498(A), 323/34 I.P.C. and 3/4 Dowry Prohibition Act.

5. The learned Chief Judicial Magistrate, Gaya after submission of charge sheet took cognizance against the petitioners on 16.05.2019 in Rampur P.S. Case No.402 of 2018 under Sections 498(A), 323/34 I.P.C. and Sections $\frac{3}{4}$ of Dowry Prohibition Act.

6. Learned counsel for the petitioners submits that petitioner no.2 has asked information from Superintendent, A.N.M.C.H., Gaya regarding the treatment of his wife from 11.10.2018 to 25.10.2018 under R.T.I. Act and Superintendent of



A.N.M.C.H., Gaya has informed petitioner no.2 vide Letter No.44 dated 18.04.2019 that Smt. Prachi Ragini was (informant) was not treated in the Hospital from 11.10.2018 to 25.10.2018 (A copy of letter dated 18.04.2019 is enclosed herewith as Annexure-2 to the present petition).

7. On the other hand, learned counsel for the State has submitted that the defence of the petitioners can be examined only at the stage of the trial.

8. Learned counsel for the State submits that in any event, this is very early stage wherein only cognizance has been taken on the basis of finding a prima facie case against the petitioners. He relies on the decision in **1996 Criminal Law Journal 2448 (SC) (State of Maharashtra and others vrs. Som Nath Thapa and others)** to contend that the test of prima facie case has to be applied at the stage at which the Court is required to consider the question of framing of charge, therefore, the level of satisfaction at the stage of taking cognizance is of an even lower standard. He also relies on **AIR 1971 SC 1389 (Balraj Khanna and others vrs. Moti Ram)** for the same proposition.

9. I have heard learned counsel for the parties and perused the record.

10. Admittedly, there are serious allegations made in the F.I.R. against the petitioners. The veracity of such allegation cannot be taken into consideration at this stage for the purpose of quashing



of order of taking cognizance. The defence, if any, is to be considered by the Court either at the stage of framing of charge or at the stage of trial.

11. From the perusal of record, it appears that I.O. has submitted the charge-sheet under Sections 498(A), 323/34 I.P.C. and 3/4 D.P. Act against the accused namely (1) Satyajeet Kuamr (2) Ramjee Rajak (3) Shanti Devi.

12. In that view of the matter, I find no illegality in the impugned order passed by the court below.

13. Accordingly, this application is dismissed.

14. However, the petitioners would be at liberty to raise all the points available to them at the stage of framing of the charge.

(Anjani Kumar Sharan, J)

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