

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No. 24904 of 2015

Arising out of PS Case No. 803 Year-2014 Thana-Motihari Town District-East Champaran

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1. Mandeep Kumar Tiwari, Son of Subhash Kumar Tiwari.

2. Subhash Kumar Tiwari, Son of Late Ramanand Tiwari.

3. Gaitri Tiwari, Wife of Subhash Kumar Tiwari.

4. Anuradha Kumari, D/o Subhash Kumar Tiwari.

All R/o Mohalla-Swami Vivekanand Colony, New Zero Mile, Ahiyapur, P.S.-
Ahiyapur, District-Muzaffarpur.

.....Petitioner/s

Versus

1. The State of Bihar.

2. Priti Pallav, Wife of Mandeep Kumar Tiwari, D/o Shivshankar Singh, residing
at Mohalla-Sri Krishna Nagar, P.S.-Town (Motihari), District-East Champaran.

.....Opposite Party/s

Appearance:

For the Petitioner/s : Mr. Mahendra Thakur, Adv.

For the O.P. No. 2 : Mr. Aditya Narayan Singh No. 1, Adv.

For the State : Mr. Kumar Virendra Narayan, APP

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CORAM : HONOURABLE MR. JUSTICE ASHUTOSH KUMAR



ORAL ORDER

14/- 26.08.2020

Heard Mr. Mahendra Thakur, learned counsel for the petitioners and Mr. Aditya Narayan Singh No. 1, learned counsel for the opposite party No. 2. The State is represented by Mr. Kumar Virendra Narayan, learned APP.

2. This application was filed in the year 2015 for quashing of the F.I.R. of Town (Motihari) P.S. Case No. 803 of 2014, which was registered for the offences under Sections 498(A), 323, 376/511, 307, 406, 452 and 120(B)/34 of the Indian Penal Code and Section 3/4 of the Dowry Prohibition Act.

3. The complaint which was filed before the learned Magistrate indicated that petitioner No. 1 was married with opposite party No. 2 on 02.05.2013 and at the time of marriage approximately Rs. 15,00,000/- was given as gift/dowry to the parents of petitioner No. 1. However, a demand of a car was put up and because of the non-fulfillment of the same, the complainant/informant/opposite party No. 2 was thrown out of her matrimonial home. It has also been alleged that when the



daughter born out of the wedlock suffered from a disease and was being treated in A.I.I.M.S., Delhi, neither petitioner No. 1 nor his family members made any efforts of providing any support either monetary or moral.

4. The aforesaid complaint was referred under Section 156(3) of the Code of Criminal Procedure (*in short the Code*) for institution of a regular case, whereafter the subject F.I.R. has been lodged.

5. Controverting the aforesaid allegations against the petitioners, it has been urged by Mr. Thakur, learned Advocate for the petitioners that from the averments made in the F.I.R., it would become very clear that the entire occurrence took place in the district of Muzaffarpur, but for some reason or the other, the complaint as well as the F.I.R. was lodged in the district of East Champaran at Motihari. It has been submitted that this is a breach of the provisions contained in Section 177 of the Code. Apart from this, it has been urged that the necessary conditions for referral of a complaint under Section 156(3) of the Code has also not been followed. Mr. Thakur has referred to a decision of this Court : ground of such breach, the entire



F.I.R. has been quashed. Lastly, it has been urged that petitioner No. 1 had filed an application under Section 9 of the Hindu Marriage Act for restitution of conjugal rights and he has obtained a decree in the aforesaid petition.

6. These facts, it has been urged, do make out a point that the petitioners have falsely been implicated in this case and that it is only a case of recalcitrance on the part of the complainant/informant/opposite party No. 2. Despite this, it has also been stated by the petitioners that petitioner No. 1 is ready and willing to explore the possibilities of a matrimonial settlement, in case the complainant/informant/opposite party No. 2 or her parents are desirous of the same.

7. Opposing the aforesaid contentions, Mr. Aditya Narayan Singh No. 1, learned counsel for the opposite party No. 2 has stated that the wife was badly treated by the petitioners and was thrown out of her matrimonial home. The issues of jurisdiction can be agitated at an appropriate stage. There are decisions of this Court as well as of the Apex Court, wherein at the stage of lodging of the F.I.R., the breach of the



provisions under Section 177 of the Code do not provide for rejecting the case altogether.

8. Mr. Singh has further submitted that these grounds cannot now be permitted to be argued by the petitioners as during the Court proceedings, they had agreed for a permanent settlement and had promised to pay an amount of Rs. 15,00,000/- towards alimony and the parties had also agreed that if this payment is made, they would withdraw the cases against each other and would part wage amicably.

9. Mr. Thakur, learned Advocate for the petitioners, submits that such an undertaking was given by petitioner No. 1 in the Court as he had become over-awed with the Court proceedings and at that time wanted the proceedings to be concluded. Today, he submits that petitioner No. 1 is out of job and is leading his life on the monetary support doled out by his father, who is himself a pensioner.

10. It appears from the proceedings of this Court that all efforts at mediation were explored, but it further appears that



not much headway was made towards such conciliation between the parties.

11. For the accusation levelled in the F.I.R. and the petition remaining pending for investigation for such a long time, I am not inclined to accede to the prayer of the petitioners for quashing of the F.I.R.

12. The prayer is, thus, rejected.

13. However, the petitioners are directed to state all these facts before the Investigating Officer, who shall take a call on the aforesaid facts and conclude the investigation as early as possible, preferably within a period of three months from the date of receipt/production of a copy of this order before him.

14. In case, the report submitted by the police is not to the satisfaction of the petitioners, they shall have the liberty to take recourse to the remedies available to them under the law.

15. Till the time, a final report is submitted by the police, no coercive action shall be taken against the petitioners in connection with aforesaid Town P.S. Case No. 803 of 2014.



16. With the aforesaid observation/direction, the petition stands disposed off.

(Ashutosh Kumar, J.)

Praveen-II/-

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