

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.86916 of 2019

Arising Out of PS. Case No.-24 Year-2018 Thana- PUSA District- Samastipur

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1. Vimla Devi, W/o Sri Ranjan Kumar
 2. Ranjan Kumar S/o Late Bechan Mahto
 3. Khushboo Devi @ Khushboo Kumari W/o Abhishek Kr. Choudhary
 4. Rahul Ranjan @ Rahul Kumar S/o Ranjan Kr. Choudhary
 5. Vivek Ranjan @ Vivek Kumar S/o Ranjan Kr. Choudhary

All Resident of Mohalla- Madapur Chhapra, P.S.- Pusha, District-
Samastipur

... .. Petitioner/s

Versus

1. The State of Bihar
2. Kumari Amrita W/o Vivek Kumar, D/o Sri Mithilesh Choudhary Resident of
Village- Narauli Sen, P.S.- Mushahari, District- Muzaffarpur.

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Pawan Kumar Singh, Adv, Mr. Pradhan Murli
Manohar Prasad, Adv and Mr. Raju Kumar
Goswami, Adv
For the Opposite Party/s : Mr.Md. Ataur Rahman (APP)

CORAM: HONOURABLE MR. JUSTICE S. KUMAR
ORAL JUDGMENT

Date : 08-01-2020

Heard learned counsel for the parties.

This application has been filed under Section 482
of the Cr.P.C for quashing the order dated 14.10.2019 passed by
learned Chief Judicial Magistrate, Samastipur in Pusa P.S. Case
No. 24 of 2018, G.R. No. 685 of 2018, instituted under Sections
498(A)/34 of the Indian Penal Code and Section 3/4 of D.P.



Act. by which learned court below has taken cognizance under Sections 498(A)/34 and Section 3/4 of the D.P. Act.

Informant has alleged in her written complaint that she was married to Vivek Kumar on 03.07.2017 and in marriage presents, gifts and cash and household articles were given to her in-laws and she went to her matrimonial home but soon thereafter the FIR named accused started torturing her and on 05.09.2017 accused sprinkled kerosene oil in order to kill her and thereafter on 18.09.2017 accused petitioners drove her away from her matrimonial home and left her in her parental home and said that unless and until she brings Rs. 5 lacs as dowry she will be not permitted to enter into her matrimonial home.

On the basis aforesaid written complaint FIR was instituted under Section 498(A) and Section 3/4 of D.P. Act and after investigation police found the case to be true and submitted chargesheet against the accused-petitioners.

On the basis of chargesheet, case diary and materials available on record the learned court below found *prima facie* case to be made out against the petitioners and took cognizance under Section 498(A) and Section 3/4 of D.P. Act and issued summons for their appearance to face trial.

It is submitted on behalf of counsel for the



petitioners that for the similar allegations informant had earlier filed a complaint case in the court of C.J.M., Muzaffarpur which is still pending before the court of C.J.M., Muzaffarpur.

There is no bar under the code of criminal Procedure that once the complaint case has been filed then no further FIR can be instituted on similar allegation.

At the stage of taking cognizance the court has to form an opinion on the basis of materials available on record whether a *prima facie* case is made out against the accused or not. Meticulous examination of evidence and its pros and cons or sufficiency and adequacy of evidence cannot be gone into by the trial court at the time of taking cognizance.

The defence of the accused cannot be considered at the time of taking cognizance. This Court in its inherent jurisdiction cannot substitute its own view regarding sufficiency or adequacy of material before the court below at the time of taking cognizance against accused as same is within exclusive domain of trial court, as such I am not inclined to interfere with the order dated 14.10.2019 passed by learned Chief Judicial Magistrate, Samastipur in Pusa P.S. Case No. 24 of 2018, G.R. No. 685 of 2018

However, the petitioners will be at liberty to raise all



the issues raised before this Court as well as other points available to them in accordance with law at the time of framing of charge.

Subject to the aforesaid observation and liberty, this application is disposed of.

(S. Kumar, J)

Rajiv/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	
Transmission Date	

