

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.87322 of 2019

Arising Out of PS. Case No.-9 Year-2018 Thana- MAHILA P.S. District- Lakhisarai

1. ANAND MOHAN JHA Son of Dil Mohan Jha Resident of Mohalla- 1/84, Shakti Nagar, Near 132/33 KV Grid Sub-Station, At and P.O.- Polytechnic, P.S.- Maranga, District- Purnea, Pin- 854303, at present resident of Mohalla-Bihar State Electric Road Colony, E-7, (Old Shastrinagar, P.S.- Shastrinagar, District- Patna- 800023.
2. Dil Mohan Jha Son of Late Bhola Jha Resident of Mohalla- 1/84, Shakti Nagar, Near 132/33 KV Grid Sub-Station, At and P.O.- Polytechnic, P.S.- Maranga, District- Purnea, Pin- 854303, at present resident of Mohalla-Bihar State Electric Road Colony, E-7, (Old Shastrinagar, P.S.- Shastrinagar, District- Patna- 800023.
3. Yasoda Devi Wife of Dil Mohan Jha Resident of Mohalla- 1/84, Shakti Nagar, Near 132/33 KV Grid Sub-Station, At and P.O.- Polytechnic, P.S.- Maranga, District- Purnea, Pin- 854303, at present resident of Mohalla-Bihar State Electric Road Colony, E-7, (Old Shastrinagar, P. S.- Shastrinagar, District- Patna- 800023.
4. Tejendra Mohan Jha Son of Dil Mohan Jha Resident of Mohalla- 1/84, Shakti Nagar, Near 132/33 KV Grid Sub-Station, At and P.O.- Polytechnic, P.S.- Maranga, District- Purnea, Pin- 854303, at present resident of Mohalla-Bihar State Electric Road Colony, E-7, (Old Shastrinagar, P. S.- Shastrinagar, District- Patna- 800023.

... .. Petitioner/s

Versus

1. THE STATE OF BIHAR
2. Vandana Jha D/o- Late Sadhan Jha, Wife of Anand Mohan Jha Resident of Village and P. S.- Barahiya, District- Lakhisarai.

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Ramakant Sharma Sr. Adv. with Mr. Laxmikant Sharma, Advocate
For the Opposite Party/s : Mr. Murli Dhar, APP

CORAM: HONOURABLE MR. JUSTICE MADHURESH PRASAD
ORAL JUDGMENT

Date : 09-01-2020

Heard learned Sr. counsel for the petitioners and learned
APP for the State.

The instant petition, under Section 482 of the Code of
Criminal Procedure, 1973 (for short 'the Code'), has been filed



for quashing the order dated 02.11.2018, passed by learned Sub Divisional Judicial Magistrate, Lakhisarai in Lakhisarai G. R. No. 404 of 2018, arising out of Mahila P. S. Case No. 09 of 2018, by which the learned Court below has taken cognizance against the petitioners for the offence under Sections 498A, 504 and 506 of the Indian Penal Code and Section 3/4 of the Dowry Prohibition Act.

Learned counsel for the petitioners submits that petitioner are husband, father-in-law, mother-in-law and '*Dewar*' of informant respectively. The complaint has been filed by the complainant alleging offence under Sections 498A of the Indian Penal Code and Sections 504 and 506 of the Indian Penal Code, read with Section 3/4 of the Dowry Prohibition Act.

The learned Sr. counsel submits that the complaint is a glaring example of malicious prosecution. The husband, in fact, is the victim as the complainant has been creating troubles in the family of the husband ever since the wedding took place. The petitioner No.1, in this respect have also lodged a informatory petition before the Sub Divisional Judicial Magistrate Patna, the same is annexed as Annexure-3 to the petition. It is further submitted that the petitioner no.1 in the informatory petition has clearly stated about the chance of false implication in a



criminal case. In the circumstances, the prosecution arising out of complaint case no. 129C/2018 is a glaring example of prosecution intended with *mala fide* and is liable to be quashed u/s 482 of the Code. Learned Sr. counsel further submits that the petitioner is willing to provide alimony to the complainant. The issue regarding the alimony is an issue which is to be raised by the petitioners in the appropriate proceeding. The present concern of the Court is in respect of the allegations levelled by the wife of petitioner No.1 in the complaint case.

On going through the complaint petition, this Court would observe that it is not one of those cases where general and omnibus allegation has been levelled against all the in-laws. In the instant complaint, specific allegations have been made against the Dewar of trying to take undue advantage of the distance between the complainant and her husband. The specific allegations have been levelled in paragraph Nos. 6,7, 8 and 9 of the complaint petition even against the father-in-law and mother-in-law of subjecting the complainant to cruelty.

In such circumstances, no case is made out for interference U/s 482 of the Code. The application is devoid of merit and the same is, accordingly, dismissed.

If the petitioners approach the Court below at the



appropriate stage, petitioner’s application for discharge or otherwise shall be considered without being prejudiced by rejection of the instant petition, in accordance with law.

(Madhuresh Prasad, J)

shyambihari/-

AFR/NAFR	NAFR
CAV DATE	N/A
Uploading Date	13.01.2020
Transmission Date	13.01.2020

