

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.74429 of 2018

Arising Out of PS. Case No.-3283 Year-2015 Thana- MUZZFARPUR COMPLAINT CASE
District- Muzaffarpur

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1. Pawan Kumar Singh @ Pawan Kumar Son Of Late Devi Lal Singh
 2. Anita Devi Wife of Pawan Kumar Singh
Both Resident of Village-Chhapra,P.S.-Tariyani, Distt.-Sheohar

... .. Petitioners

Versus

1. State Of Bihar
2. Ritu Singh wife of Vikram Kumar, D/o of Jitendra Nath Singh, Resident of
Village-Baruari,P.S. Gaighat,Distt.-Muzaffarpur

... .. Opposite Parties

Appearance :

For the Petitioner/s	: Mr. Nachiketa Jha, Advocate
For the State	: Mr. Jagdhar Prasad, APP
For the Complainant/O.P. No.2	: Mr. Arvind Kumar Singh, Advocate Mr. Ajay Kumar Pandey, Advocate

CORAM: HONOURABLE MR. JUSTICE DR. ANSHUMAN
ORAL JUDGMENT

Date : 15-11-2022

Heard learned counsel for the petitioners and learned
counsel for the State as well as learned counsel for the Opposite
Party No.2.

The present application has been filed under Section 482
of Cr.P.C. for quashing of the order dated 22.09.2017 passed in
Trial No. 1125 of 2018 arising from Complaint Case No. 3283
of 2015 by which the Court of learned Addl. Chief Judicial
Magistrate-15, Muzaffarpur(East) has taken cognizance under
Section 498A/34 of the Indian Penal Code.

The petitioners before this Court are the parents of

Vikram Kumar (husband of the complainant).

Learned counsel for the petitioners submits that the present petitioners have nothing to do with the present dispute between the spouse and present case has been filed with false allegations of demand of dowry and torture.

Learned counsel for the petitioners submits that upon going through the entire complaint case, examination of complainant, the evidence of enquiry witnesses, it transpires that the marriage of O.P. No.2 with the son of petitioners was solemnized as per Hindu Right and Rituals on 30.05.2014. It has been alleged that on the night of marriage itself the husband and father-in-law started demanding land, here allegation of demanding land is not upon petitioner no.2. It has been further submitted that on 28.07.2014 the brother of complainant-O.P. No.2 had visited to the house of the petitioners, negotiation took place and subsequently on 02.11.2014 O.P. No.2 returned from her sasural. It has also mentioned that a general and omnibus allegation of assault has been made. Thereafter, O.P. No.2 has again returned to her sasural on 06.11.2014 for 9-10 days and allegation upon the petitioners to went to his ancestral house then on 06.11.2014 the O.P. NO.2 has returned back to her *Maike*.

Learned counsel for the petitioners further submits that the allegation of torture/cruelty is upon the husband of the complainant were made thrice on 7th March, 2015, on 7th July, 2015 and further on October, 2015 but such allegation were not made against the present petitioners. Similarly in her examination also the allegation is made against the husband only relating to event of 7th July, 2015. Learned counsel for the petitioners further submits that from the statement of the enquiry witnesses, the allegations made against the petitioner nos. 1 and 2, are in contradiction.

Learned counsel conclusively submits that there is no material against the present petitioners and if any, it is only against the husband of O.P. No.2, who is not the petitioner here.

Learned counsel for the petitioners relied on judgement i.e. **Shiv Jee Rai vs. The State of Bihar & Anr.** reported in **2013 (3) PLJR 139**, in which it has been held that:

in case of only general, vague and omnibus allegation, the cognizance should sustain only against the husband and not against the other family members.”

Learned counsel further relied on judgement of **Preeti Gupta and Another vs. State of Jharkhand and Another** reported in **A.I.R. 2010 SC 3363** as well as on the judgement of

Shurendra Trivedi and Anr. vs. The State of Bihar & Anr.

(Cr. Misc. No. 70155 of 2018 dated 29.01.2020) in which it has been observed that:

It is a matter of common knowledge that exaggerated versions of the incident are reflected in a large number of complaints arisen out of matrimonial dispute. The tendency of over implication has become affair of the day and unfortunately at the time of filing of the complaint the implications and consequences are not properly visualized by the complainant that such complaint can lead to insurmountable harassment, agony and pain to the complainant, accused and his close relations.

No doubt the complainant has made averment in the complaint petition against the petitioners also who are old parents of the husband. Prosecution of the petitioners would not serve any purpose rather would come in the way of restitution of conjugal life, if any such chance arises in future. The main dispute is between the husband and the wife.

Learned counsel for the State opposes the present

application for quashing.

Learned counsel for the O.P. No.2 submits that cognizance has been taken in this case after taking examination of the complainant supported by enquiry witnesses and there are materials on record.

By perusing the record and upon hearing counsel for petitioners, counsel for APP and counsel for the O.P. No. 2, it appears that the matrimonial dispute exist between the husband and wife only and the question torture is only against the husband and not against the present petitioners, who are the parents of the husband. No doubt there are averments against the petitioners in the complaint against the father of the husband but the said averments has not been opposed by the inquiry witnesses and only on the basis of general, vague and omnibus allegations, the present cognizance order should sustain only against the husband and not against other family members.

Considering the entire facts as well as the ratio decided in the above noted cases, I am of the firm view that the present criminal prosecution of the petitioners would amount to abuse of the process of the Court.

Hence, the impugned order is hereby quashed against the

present petitioners only and this application stands allowed.

(Dr. Anshuman, J.)

ravishankar/-

AFR/NAFR	
CAV DATE	
Uploading Date	
Transmission Date	