

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.10784 of 2021**

Arising Out of PS. Case No.-2905 Year-2018 Thana- SIWAN COMPLAINT CASE District-
Siwan

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1. RAKESH KUMAR GUPTA, Son of Deo Shankar Gupta
 2. Deo Shankar Gupta, son of Bhuwaneshwar Prasad
 3. Shanti Devi, Wife of Deo Shankar Gupta
All resident of Mohalla - Rahamganj, P.S. - Laheriasarai, District - Darbhanga.

... .. Petitioner/s

Versus

1. The State of Bihar
2. Ranjeeta Kumari wife of Rakesh Kumar Gupta daughter of Surendra Prasad
Resident of Mohalla - Nirala Nagar, P.S. - Siwan Sadar, District - Siwan.

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Shambhu Nath Jha, Advocate
For the Opposite Party/s : Mr. APP

**CORAM: HONOURABLE MR. JUSTICE S. KUMAR
ORAL JUDGMENT**

**(The proceedings of the Court are being conducted through
Video Conferencing and the Advocates joined the proceedings
through Video Conferencing from their residence.)**

Date : 29-04-2022

Heard learned counsel for the parties.

Petitioners have prayed for following relief:-

“For quashing of order dated 12.02.2020 (as contained in Annexure-8 of this application) passed by the learned Sessions Judge, Siwan whereby and whereunder the criminal revision filed by the petitioners in Cri. Rev. No.165/2019 has been rejected.”

Briefly stated the facts of the case is that complainant Shanti Devi filed a complaint case No.2905/18 against her husband Rakesh Kumar Gupta (petitioner no.1), Deo Shankar Gupta (father in law, petitioner no.2) and Shanti Devi (mother-

in-law, petitioner no.3) and seven other accused of their family alleging therein that the marriage was solemnized between complainant and petitioner no.1 on 24.02.2012 at Siwan and complainant went to her matrimonial home where soon thereafter, she was tortured, misbehaved and ill-treated for non-fulfillment of demand of dowry and lastly she was ousted from her matrimonial house and accused compelled her to reside in her parental home, where one son was also born to her.

Complainant was examined on S.A. and three inquiry witnesses were examined on behalf of complainant and on the basis of SA and statement of inquiry witnesses and material available on record, the trial court by order dated 14.08.2019 found *prima facie* case under Section 498 A of the IPC to be made out against the petitioners and issued summons for their appearance, against which, petitioners preferred revision before the Sessions court in Criminal Revision No.165/19 which was heard and dismissed by the learned Sessions Judge, Siwan by order dated 12.02.2020 against which, present petition under Section 482 of Cr.P.C. has been filed for quashing the impugned order dated 12.02.2020.

The revisional court has rejected the revision petition filed by petitioners and operative part of which reads as

follows:-

“Having gone through the aforesaid facts and submissions as advanced on behalf of both the parties and on perusal of trial court record and the impugned order as well, this court finds that O.P. No.1 filed a complaint case no.2905/018 against her husband Rakesh Kumar Gupta, father-in-law and mother-in-law and seven others of her sasural fellow as she was ousted from the matrimonial house on 09.03.2018 and she was boarded on a Siwan-bound train, thereafter she came to Siwan and thereafter she reported to her parents about the ill-behaviour of her husband and in-laws and after persuasion, when the matter could not be resolved, then she filed this complaint case no.2905/018 before the court of C.J.M, Siwan. This court finds that the complainant has given her statement on S.A to the court of S.D.J.M, Siwan where she supported the fact that she was subjected to torture by her husband and her in-laws due to non-fulfillment of demand of Splendor motorcycle and finally she was ousted from the matrimonial house and she was boarded on a Siwan-bound train on 09.03.2018, since then she is living at her Naihar along with her minor son that is also corroborated by her father Surendra Prasad (P.W. 1), her mother Raj Kumar Devi (P.W 2) and Shekhar Anand (P.W 3) during the course of inquiry. This court further finds that after scrutinizing the materials, the learned S.D.J.M, Siwan found a *prima facie* case under section 498(A) of I.P.C. against all the three revisionists. So, there is no impropriety in passing the impugned cognizance order against the revisionists. This court further finds that it is argued by the revisionists’ side that as per the complaint, the incident took place with the complainant at Darbhanga, so this case is suffered from jurisdictional error, but this court is not convinced to this argument because the marriage was solemnized at Siwan, thereafter the complainant went to Sasural, where she was subjected to torture by her husband and by her-in-laws, ultimately, she was ousted from the matrimonial house and her husband got her boarded in a Siwan-bound train at Darbhanga and when she came to Siwan, she made complaint. So, there is no jurisdictional error as such in the instant case, accordingly this court finds and holds that there is no impropriety and illegality in the impugned order of the learned magistrate, hence this court finds no merit in the instant revision petition, accordingly it is rejected.”

It is well settled preposition of law that at the stage of taking cognizance, Magistrate is required to apply his judicial mind to find out whether *prima facie* case has been made out for summoning the accused person and there are reasons for issuing

the process and whether the ingredients of the offence are there on record. At this stage, the learned Magistrate is not required to consider the defence version of the accused nor he is required to evaluate the merits of the evidence.

The correctness of the order whereby the cognizance of the offence has been taken by the Magistrate, unless it is perverse or based on no material, does not require any interference.

Cognizance is taken of the offence and not the offender. At the stage of framing of charge and individual, accused may seek discharge if he or she can show that materials are absolutely insufficient for framing of charge against a particular accused.

This Court does not find any error or infirmity or perversity or any jurisdictional error in the order passed by the learned revisional court requiring any interference by this Court. Accordingly, this petition under Section 482 of Cr.P.C. is dismissed.

(S. Kumar, J)

Sanjay/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	13.06.2022
Transmission Date	NA