

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.58344 of 2018

Arising Out of PS. Case No.-25 Year-2017 Thana- MAHILA P.S. District- Sitamarhi

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1. Kishori Mahto and Ors S/o Late Prasadi Mahto
 2. Sumitra Devi W/o Kishori Mahto
 3. Baiju Kant Mahto S/o Kishori Mahto
 4. Rima Devi W/o Baiju Kant Mahto All resident of Village - Bhutahi, P.S. Sonbarsa, Dist - Sitamarhi.

... .. Petitioner/s

Versus

1. State Of Bihar and Anr
2. Pinki Kumari D/o Shivji Mahto Resident of N.I.T. Marg Registrar, Quarter No. 27, P.S. Pirbahore, Dist - Patna.

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Sanjay Kumar, Advocate
For the Opposite Party/s : Mr. Sri Chandrasen Prasad Singh, A.P.P.

CORAM: HONOURABLE MR. JUSTICE SATYAVRAT VERMA
ORAL ORDER

4 01-12-2022 Heard learned counsel for the petitioners and learned
A.P.P. for the State.

Learned counsel at the outset seeks permission to
withdraw the present quashing application with respect to
petitioner No. 1.

Permission has been accorded.

It is next submitted that the present application has
been filed for quashing the order dated 2.08.2018 passed by the
S.D.J.M. Sadar, Sitamarhi in connection with G.R. No. 1899 of
2017 and Tr. No. 3220 of 2018, arising out of Sitamarhi Mahila



P.S. Case No. 25 of 2017 whereby and where under, the learned Trial Court has been pleased to reject the petition dated 28.06.2018 filed by the petitioners under Section 239 of the CrPC for discharge.

Learned Counsel for the petitioner submits that till date trial has not commenced, petitioners are father-in-law, mother-in-law, brother-in-law (Bhainsur) and sister-in-law of the informant, learned counsel further submits that the law is well settled that at the stage of framing of charge, the Court does not appreciate the evidence meticulously, but then from perusal of the allegation and the materials which transpired during the course of investigation, it would manifest that the allegations against the petitioners are general and omnibus in nature, it is also submitted that no substantial material transpired during the course of investigation to connect the petitioners with the offence, it is next submitted that whenever any dispute arises between the husband and the wife the entire family members are implicated. Learned counsel next submits that it is the duty of the husband to ensure the well being of his wife and also has a responsibility to ensure that the wife lives with dignity and honour but then of late, it is being seen that whenever a dispute arises between the husband and wife, the entire family members



of the husband gets implicated with general and omnibus allegations. Learned counsel next relies on an order dated 15.09.2010 in Criminal Misc. No. 15719 of 2006 (Deepak Kumar Deep and others Vs. The State of Bihar and another) whereby this Hon'ble Court in similar circumstance was pleased to quash the order of cognizance placing reliance on an order passed by the Hon'ble Supreme Court in the case of Preeti Gupta and another Vs. The State of Jharkhand and another reported in 2010 Vol. 7 SCC Page 667, wherein, at Para 30, the Hon'ble Supreme Court had recorded that it is a matter of common experience that most of this complaint under Section 498A IPC are filed in the heat of the moment over trivial issues without proper deliberation. We come across the large number of such complaints which are not even bonafide and are filled with public motive. At the same time, rapid increase in the number of genuine cases of dowry and harassment are also matter of serious concern, thereafter, at Para 35, it was recorded that the criminal trials lead to immense suffering for all concerned. Even ultimate acquittal in the trial may also not be able to wipe out the deep scars of suffering of ignominy. Unfortunately, a large number of these complaints have not only flooded the Court but also have led to enormous social unrest affecting peace harmony



and happiness of the society.

Learned counsel thus submits that in the present case also the informant alleges that she was married to Harishankar Kumar on 17.03.2012 and the same was a love marriage, but after marriage, the accused persons including the petitioner started demanding Rs. 10 lacs by way of dowry and for non-fulfillment of the same, she was tortured, it is next alleged that, thereafter, she went to her parental home where on 19.05.2017 she came to know that her husband was contemplating a second marriage with Pinky Kumari, as such, alleged that legal action be taken against all the accused persons. Learned counsel submits that the informant with general and omnibus allegations has tried to falsely implicate the petitioner when admittedly there was a dispute with her husband, it is also submitted that demand of dowry including torture was general and omnibus in nature, it is next submitted that the Learned S.D.J.M. Sadar, Sitamarhi while considering the application under Section 239 was persuaded by the fact that cognizance has been taken against the petitioner and there is allegation of torture and assault as such refrained from interfering with the order taking cognizance.

Learned A.P.P. for the State opposes the quashing



application of the petitioner.

After considering the submissions made by the learned counsel for the petitioner, the order dated 2.08.2018 passed by the Learned S.D.J.M. Sadar, Sitamarhi, whereby cognizance under Sections 498A and 34 of the Indian Penal Code and Sections 3 and 4 of the Dowry Prohibition Act, in connection with G.R. No. 1899 of 2017 and Tr. No. 3220 of 2018, arising out of Sitamarhi Mahila P.S. Case No. 25 of 2017, is taken against the petitioner only, is hereby quashed.

(Satyavrat Verma, J)

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