

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.17704 of 2019

Arising Out of PS. Case No.-53 Year-2015 Thana- PURNEA SADAR District- Purnia

1. SHAMBHU PRASAD YADAV, Son of Late Bhola Prasad Yadav Resident of Village - Bagari, Ishapur, P.S.- Kharik Bazar, District - Bhagalpur at present resident of Rambagh Professor Colony, P.S.- Sadar, District- Purnea
2. Chandani Devi Wife of Shambhu Prasad Yadav Resident of Village - Bagari, Ishapur, P.S.- Kharik Bazar, District - Bhagalpur at present resident of Rambagh Professor Colony, P.S.- Sadar, District- Purnea
3. Pawan Kumar @ Pawan Kumar Yadav Son of Shambhu Prasad Yadav Resident of Village - Bagari, Ishapur, P.S.- Kharik Bazar, District - Bhagalpur at present resident of Rambagh Professor Colony, P.S.- Sadar, District- Purnea

... .. Petitioner/s

Versus

1. THE STATE OF BIHAR.
2. Amrita Kumari D/o - Tej Narayan Yadav Resident of Biyarpur, P.S.- Ranipatara, District - Purnea

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Sushil Kumar Jha
For the Opposite Party/s : Mr. Suresh Prasad Singh, APP

CORAM: HONOURABLE MR. JUSTICE SANDEEP KUMAR
ORAL ORDER

9 10-04-2023 Heard learned counsel for the parties.

This application has been filed for quashing of the order dated 02.01.2019 passed by the learned Chief Judicial Magistrate Purnea in Sadar (Muffasil) P.S. Case No. 53/2015, G.R. No. 547/15 by which cognizance has been taken against the petitioners for the offence under Sections 147/ 447/ 423/ 498A/504/506 of the Indian Penal Code and section 3/4 of the D.P. Act.

As per prosecution case, the opposite party no. 2 who



is informant of this case alleged that she married with Santosh Kumar (son of the petitioners no. 1 and 2) on 12.05.2013 and on account of marriage several articles has been given. After some time of marriage, father-in-law, mother-in-law and other family members started demanding dowry of Rs. 10 Lacs which was not offered at the time of marriage. On protest, the informant was subjected to mental and physical torture. When informant given information to her parents, they came and requested to settle the dispute but nothing happened. They ousted the informant from their house, she went to *Naihar*. They arrived her house and they assured not to torture and then she went to her matrimonial home, again they started torture and started threatening hence she left the matrimonial house and returned on 26.01.15 to her *Naihar*. Hence the F.I.R. was registered against these petitioners.

Counter affidavit has been filed by the State.

It has been argued by learned counsel for the petitioners that it is the petitioners who are facing harassment at the hands of the opposite party no. 2 who is neither appearing before this Court despite notice nor is appearing in the court below. It has further been submitted by learned counsel for the petitioners that the marriage was solemnized on 12.05.2013, the



F.I.R. was registered on 04.02.2015 and the cognizance has been taken on 02.01.2019 i.e., more than three years. Learned counsel further submits that the cognizance order is bad in law in view of the Section 468 of the Cr.P.C. which prescribes a early three years from the date of occurrence.

Learned counsel for the petitioners have also submitted that the opposite party no. 2 has remarried and because of her remarriage she has lost interest in the matter and is not appearing in the matter. In support of remarriage a marriage card is annexed as Annexure-4.

Learned counsel for the State has opposed the prayer of quashing and said that the matter can be thrashed out in the court below.

I have considered the submission of the parties, when the opposite party no. 2 has not appeared in the court below despite notices and a marriage card has been brought on record by the learned counsel for the petitioners in the present proceeding, keeping the matter pending before the court below causing unnecessary harassment to the petitioners.

In the interest of justice, this application is allowed.

Accordingly, impugned order dated 02.01.2019 passed by learned Chief Judicial Magistrate, Purnea in Sadar



(Muffasil) P.S. Case No. 53/2015, G. R. No. 547/2015 against
all the petitioners including one Santosh Kumar, husband of the
opposite party no. 2 are hereby quashed.

(Sandeep Kumar, J)

Ranjeet/-

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