

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.46910 of 2015

Arising Out of PS. Case No.-20 Year-2015 Thana- MAHILA P.S. District- Lakhisarai

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1. Vishundeo Sao @ Vishundeo Prasad, Son of Krishna Sao.
 2. Binita Devi @ Anita Devi, Wife of Vishnudeo Sao.
 3. Binod Prasad @ Binod Sao, son of Krishnadeo Sao.
 4. Babita Devi @ Banita Devi, wife of Binod Sao.
- All are residents of Village-Budhouli Chauk Bazar, P.S. Sheikhpura,
District-Sheikhpura.

... .. Petitioners

Versus

The State f Bihar

... .. Opposite Party

Appearance :

For the Petitioner/s : Mr. Pankaj Kumar Sinha, Advocate

For the Opposite Party/s : Mr. Md. Arif, APP

CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

3 20-09-2023 Heard learned counsel for the petitioners and learned
APP for the State.

2. The petitioners in the present case are seeking setting aside of the order dated 24.08.2015 passed by learned Chief Judicial Magistrate, Lakhisarai in Lakhisarai Mahila P.S. Case No. 20 of 2015 by which the learned Magistrate has taken cognizance of offences under Sections 498A, 341, 323, 307, 504, 506 and 34 IPC read with Section 3/4 of the Dowry Prohibition Act and summoned the petitioners to face trial.

3. Learned counsel for the petitioners submits that in course of investigation, it has come that there was a love marriage between the boy namely, Subhash Kumar @ Birju Sao and the informant. It has also come in course of investigation



that petitioner no. 1 along with his wife was living separately for 20 years at Lakhisarai and petitioner no. 3 along with his wife was living separately for 15 years at Ramgarh and they have got no concern with their brother's day-to-day affairs. It is submitted that learned Magistrate has taken cognizance without applying a judicious mind to the fact that petitioner nos. 1 to 4 are living separately.

4. Learned APP for the State submits that in the First Information Report, there are allegations that these petitioners were demanding dowry of Rs.3 lakhs and on refusal to pay the same, they were indulging in causing assault upon the informant and had also attempted to set her on fire. After investigation, police has found the case true and submitted a chargesheet against the petitioners whereupon cognizance has been taken.

5. Learned counsel for the petitioners is not aware of the present stage of the case even though there was no interim order staying the prosecution, after about eight years it is not known as to how the case has progressed in the court below.

6. Having regard to the allegations made in the First Information Report which has been investigated and a chargesheet has been filed against the accused-petitioners, this Court is of the considered opinion that the allegations as made



without adding or subtracting anything out of it make out a prima-facie case, therefore, the learned Magistrate has not committed any error in taking a prima-facie view of the matter and issuing summons to the petitioners.

7. This application is dismissed, however, the pleas available to the petitioners may be availed at the time of framing of charge, if the charges have not been framed so far.

(Rajeev Ranjan Prasad, J)

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