

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.35355 of 2017

Arising Out of PS. Case No.-518 Year-2016 Thana- Patna Complaint Case District- Patna

1. Ashok Kumar @ Ashok Kumar Pandit, aged about 33 years, Son of Rampravesh Pandit,
 2. Rampravesh Pandit, aged about 54 years, Son of Late Bhagwat Pandit.
 3. Suraj Devi @ Suryamania Devi, aged about 51 years, Wife of Rampravesh Pandit,
 4. Omprakash @ Prakash Kumar, aged about 29 years, Son of Rampravesh Pandit.
- All Residents of Village- Sabajpura, Post and P.S.- Phulwarisharif, District- Patna.

... .. Petitioner/s

Versus

1. The State of Bihar.
2. Shubhanti Devi, W/o Ashok Kumar D/o Jayram Pandit, resident of Village- Faridpur, Police Station- Naubat Pur, Distt.- Patna.

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Anshuman, Advocate

For the Opposite Party/s : Mr. Damodar Prasad Tiwary, APP

CORAM: HONOURABLE MR. JUSTICE SATYAVRAT VERMA
ORAL ORDER

2 13-10-2023 Heard learned counsel for the petitioner and learned
Additional Public Prosecutor for the State.

2. The Court prima-facie finds no merit in the present quashing application for the reasons to be recorded hereinafter.

3. The learned counsel for the petitioners submits that the present quashing application has been filed seeking quashing of the order dated 30.08.2016 passed by learned Sub-Divisional Judicial Magistrate, Danapur, Patna in Complaint Case No.518(C) of 2016, whereby cognizance of offence under Section 498(A) of the Indian Penal Code read with Section 4 of



D.P. Act has been taken.

4. The learned counsel for the next submits that the complainant alleges that she was married to the petitioner no.1 on 22.05.2006 and stayed happily with the husband for two years and thereafter, he started torturing her and even assaulted, it is next alleged that at the time of marriage, the father of opposite party no.2 by way of gift had given Rs.4 lacs alongwith the T.V., motorcycle, jewellery, cloths etc., further, a child was also born out of the wedlock after two years of marriage, it is next alleged that thereafter, the petitioner no.1 started demanding Rs.60,000/- by way of dowry for his business and when her father was not in a position to fulfill the demand she was assaulted and thereafter, she was ousted from her matrimonial home and whenever she wants to go back, she is assaulted.

5. The learned counsel for the petitioner further submits that from bare perusal of the allegation as alleged in the complainant it would manifest that the allegation hinges around the petitioner no.1 and there is no specific allegation of demand of dowry or torture against the other accused persons. It is next submitted that whenever any dispute arises in between the husband and the wife, the entire family members are implicated



in a mechanical manner. It is next submitted that opposite party no.2 stayed with her husband for two years only when a child was born and thereafter, she fell in love with one Mrityunjay Pandit, accordingly, the said fact was brought to the notice of the Gram Panchayat of the place where the parental home of opposite party no.2 is, it is next submitted that thereafter, the husband of the opposite party no.2 filed an application before the learned Principal Judge, Family Court seeking restitution of his conjugal rites, it is thus, submitted that the allegation hinges around the husband while rest of the accused persons have been implicated merely because they are related to the husband of opposite party no.2

6. The learned A.P.P. opposes the prayer for quashing application and submits that no women would want to spoil her life when she does not have any means of sustaining, it is next submitted that the quashing application does not even remotely suggest that where the child presently is, on which the learned counsel for the petitioners submits that the child is staying with the opposite party no.2.

7. The learned A.P.P. further submits that it absolutely does not stand to reason that if it is being alleged that opposite party no.2 was having extra marital relations with Mrityunjay



Pandit then where was the occasion for the husband of the opposite party no.2 to file an application seeking restitution of conjugal rites which amply demonstrates that the said pleadings in the quashing application has been made only to prejudice the case of the opposite party no.2, it is further submitted that it is true that there is no specific allegation alleged against the petitioner nos.2, 3 and 4 but then an important fact cannot be ignored is that the opposite party no.2 has a child who is staying with her and it is not in dispute that the child does not belong to the petitioner no.1, it is thus submitted that without the support of the petitioner no.2, 3 and 4, the petitioner no.1 would not have ousted the opposite party no.2 from her matrimonial home. The learned APP further submits that the petitioners can raise all the issues at the time of framing of charge even.

8. Considering the submissions made by the learned A.P.P. the Court is not inclined to entertain the quashing application, accordingly, the present quashing application stands rejected.

(Satyavrat Verma, J)

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