

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.12212 of 2018

Arising Out of PS. Case No.-793 Year-2015 Thana- PHULWARISHARIF District- Patna

1. Liyakat @ Liyakat Ali and Ors Son of Muhammad Ali Ansari, resident of Village- Naibazar, Police Station- Buxar, District- Buxar.
2. Nasim @ Nasime Khatun, Wife of Liyakat Ali, resident of Village- Naibazar, Police Station- Buxar, District- Buxar.
3. Md. Shamim Alam, Son of Md. Shafique Ansari, resident of Village- Naya gaon NKG Katani, Police station- Katani, District- Katani, State- Madhya Pradesh.

... .. Petitioner/s

Versus

1. State Of Bihar and Anr
2. Sabiha Prawen, daughter of Late Md. Jamaludding, resident of Village- Bhusaula, Post Office- Mobarakpur, Police Station- Phulwari Sharif, District- Patna.

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Gopal Govind Mishra,Advocate
For the Opposite Party/s : Mr.Sri Ataur Rahman,APP

CORAM: HONOURABLE MR. JUSTICE RAJIV ROY
ORAL ORDER

5 02-02-2023 Heard learned counsel for the petitioners and learned APP for the State.

The present petition has been preferred for quashing of the order dated 19.04.2017 passed by the learned Sub-Divisional Judicial Magistrate, Patna in Phulwari Sharif P.S. Case No. 793 of 2015 by which cognizance has been taken under Section 341, 323, 379, 498A and 34 of the Indian Penal Code and Section 3/4 of the Dowry Prohibition Act and summoned issued against the petitioners.



The petitioner no. 1 is the brother-in-law (nandosi) of the informant while petitioner no. 2 is the sister-in-law (nanad) and married to the petitioner no. 1. The petitioner no. 3 is also brother-in-law (bhaisur). The allegation in the FIR is as follows:-

One Sabeha Praven instituted the First Information Report alleging therein that marriage of the Opposite Party No. 2 was solemnized with Md. Nasim Alam on 21.04.2014 in accordance with Muslim rituals at Bhusaula, Danapur. The informant further stated that after marriage, they enjoyed peaceful life but after one year the accused persons started demanding Rs. 3,00,000/- cash and ornaments. The informant further stated that she gave birth of a child aged about 7 (Seven) month with the wedlock with her husband. She further alleged that her in-laws started demand of dowry and after non-payment of the amount she was assaulted by the in-laws families and on 06.03.2015 she was dragged out from her house and came to her parental house and instituted this First Information Report on 23.11.2015 against the petitioners and others.

The police investigated the matter and submitted charge sheet against these accused persons including the petitioner herein.



Mr. Gopal Govind Mishra, learned counsel for the petitioners submitted that a bare perusal of the FIR would show that nothing has been alleged these petitioners. The further submission is that while petitioner no. 1 is a Science Teacher serving in the District of Buxar, the petitioner no. 2, his wife also reside there, similarly, the petitioner no. 3 is an employee of the Indian Railways and at the relevant time posted at Madhya Pradesh under Jabalpur Division. They absolutely had no role to play in the matter and only because they belong to the family of the husband of the informant, they have been dragged in the case.

On the last occasion, on 19.09.2018, a Co-ordinate Bench of this Court had issued notice to the opposite party no. 2, the lady informant and in the meantime, the proceeding pending before the learned Sub-Divisional Judicial Magistrate, Patna in Phulwari Sharif P.S. Case No. 793 of 2015 was stayed.

On call, no one appeared for the informant although name of Vijay Kumar Singh appears in the cause list.

Having gone through the FIR as also the averment put forward by the learned counsel for the petitioners, this Court is convinced that so far as the present petitioners namely, Liyakat @ Liyakat Ali (petitioner no. 1), Nasima @ Nasima Khatun



(petitioner no. 2) and Md. Shamim Alam (petitioner no. 3) are concerned, no case against them is/are made out.

Accordingly, so far as the order dated 19.04.2017 by which cognizance has been taken under Section 341, 323, 379, 498A and 34 of the Indian Penal Code and Section 3/4 of the D.P.Act against these three petitioners are concerned, the same stands quashed.

The Cr. Misc. No. 12212 of 2018 is allowed.

(Rajiv Roy, J)

Jagdish/Neha/-

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