

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.32019 of 2016

Arising Out of PS. Case No.-278 Year-2014 Thana- AKBARPUR District- Nawada

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1. Ajay Kumar Chaudhary @ Ajay Chaudhary and Ors Son of Naresh Chaudhary,
 2. Naresh Chaudhary, Son of Muni Chaudhary, (Father-in-law).
 3. Shaila Devi Wife of Naresh Chaudhary, (Mother-in-law).
 4. Birendra Chaudhary @ Bijendra Kumar, Son of Naresh Chaudhary, (Dewar)
 5. Ilendra Chaudhary @ Dhirendra Kumar, Son of Naresh Chaudhary, (Dewar)
 6. Sunil Chaudhary, Son of Muni Chaudhary, (Cosine Father-in-law). All residents of village- Mafi Gali Warisaliganj, P.S- Warisaliganj, District- Nawada.

... .. Petitioner/s

Versus

1. State Of Bihar
2. Sushama Chaudhary @ Soni Wife of Ajay Kumar Chaudhary, resident of Village Mafi Gali, Warisaliganj, P.S.- Warsaliganj, District- Nawada. At present daughter of Visheshwar Chaudhary, Village- Pachrukhi, P.S.- Akbarpur, District- Nawada.

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Rajeev Nayan
For the Opposite Party/s : Mr. Uday Pratap Singh

CORAM: HONOURABLE MR. JUSTICE SANDEEP KUMAR
ORAL ORDER

3 14-03-2023 Heard the learned counsel for the petitioners and

learned APP for the State.

This application has been filed for quashing the order dated 05.01.2016 passed by the learned A.C.J.M.-II Nawada by which the cognizance has been taken against the petitioners under Section 498(A), 406 of the IPC and under Section 4 of the Dowry Prohibition Act arising out of Akbarpur P.S. Case No. 278 of 2014 lodged for the offences under Section 498(A), 323,



406 of the IPC and under Section 4 of the Dowry Prohibition Act against all the above named petitioners.

The petitioners are the husband and in-laws of the informant. There is usual allegation of demand of dowry and torture after marriage.

Learned counsel for the petitioner has denied all the allegations and has further submitted that complainant has already re-married and has been blessed with a child. In support of this, he has annexed the birth certificate dated 04.02.2023 which shows that the complainant is the mother of the child and one Dharmendra Choudhary is the father of the child.

Learned counsel for the petitioner submits that a Matrimonial (Divorce) Case No. 174 of 2016 is pending the court of Principal Judge, Family Court, Nawada in which the complainant is not appearing. He has also submitted that after the birth of the child, opposite party no. 2 has filed one Warisaliganj P.S. Case No. 717 of 2022 under Sections 498(A), 323 of the IPC and Section 3/ 4 of the Dowry Prohibition Act against the entire family.

In that view of the matter, he further submits that Interlocutory Application No. 01 of 2023 may be allowed and the prayer made in the IA for quashing cognizance order dated



05.01.2016 as well as FIR of Warisaliganj P.S. Case No. 717 of 2022 under Section 323, 498(A) of the IPC and $\frac{3}{4}$ of the Dowry Prohibition Act arising out of same complaint case no. 1576 of 2014 be amended and read as part of the main petition.

Learned counsel for the o.p. no. 2 is present. I have heard him also. He has no objection on the Interlocutory Application.

In these circumstances, the Interlocutory Application No. 01 of 2023 is allowed and the prayer in the main petition is directed to be amended.

So far as the merits of the case is concerned, it seems that it is the accused persons who are being harassed by the opposite party no. 2 and false cases are being filed by the opposite party no.2 who has chosen to remarry and is staying happily with her second husband and child.

Learned counsel for the opposite party no. 2 in view of the impeccable evidence brought on record by the petitioner is unable to defend the actions of his client though, he has vehemently argued that the case cannot be allowed at this stage.

After having considered the submissions of the parties, the order of cognizance dated 05.01.2016 passed in Akbarpur P.S. Case No. 278 of 2014 as well as FIR of



Warisaliganj P.S. Case No. 717 of 2022 is nothing but an abuse of the process of the Court. This kind of malicious prosecution should be nipped at the bud.

Accordingly, This application is allowed. The order dated 05.01.2016 passed in Akbarpur P.S. Case No. 278 of 2014 as well as FIR of Warisaliganj P.S. Case No. 717 of 2022 is hereby quashed.

(Sandeep Kumar, J)

Shishir/Vikas

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