

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.49952 of 2022

Arising Out of PS. Case No.-564 Year-2018 Thana- EAST CHAMPARAN COMPLAINT
District- East Champaran

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1. HAJIULLAH MIAN @ HAJIULLAH S/o Late Gulabi Mian R/o village- Bikram Pur, P.S.- Dhaka, District- East Champaran
 2. Mamta Jun Khatoon W/o Hajiullah Mian @ Hajiullah R/o village- Bikram Pur, P.S.- Dhaka, District- East Champaran

... .. Petitioner/s

Versus

1. The State of Bihar
2. Naful Nesha W/o Hajiullah Mian @ Hajiullah, D/o Habib Mian R/o village- Sunder Pur, P.S.- Banjariya, District- East Champaran

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Vijay Shankar Shrivastava
For the Opposite Party/s : Mr. Jagdhar Prasad

CORAM: HONOURABLE MR. JUSTICE ANJANI KUMAR SHARAN
ORAL ORDER

4 16-10-2023 Heard learned counsel for the petitioner and learned APP for the State but none is present on behalf of opposite party no.2 in spite of valid service of notice.

2. Learned counsel for the petitioners submits that notice was issued to opposite party no.2 but the same was received by her father. Learned counsel for the petitioners has filed a jointness petition and in para-4 of the said petition it is stated that the father of opposite party no.2 is living jointly in a house and there is no separation in between them and as such the service of notice upon the opposite party no.2 may be treated as valid service as the same was received by her father.



3. In view of the aforesaid submissions, the service of notice upon opposite party no.2 is deemed to be valid service of notice.

4. The petitioners apprehend their arrest in a case registered for the offences punishable under Sections 498A, 323, 379, 406, 420, 465, 467, 468, 471 & 504/34 of the Indian Penal Code but the learned Court below has taken cognizance only under Section 498A of the Indian Penal Code.

5. The allegation against the petitioners is that the opposite party no.2 was subjected to demand of dowry and on account of non-fulfillment of the same, she was tortured in various ways resulting into lodging of the present complaint petition.

6. It is submitted by learned counsel for the petitioners that no such occurrence as alleged ever took place. Petitioners have been falsely implicated in this case. The allegation levelled against the petitioners is not specific rather general and omnibus in nature. It is further submitted that earlier the opposite party no.2 had filed a Complaint Case No.C-477 of 2000 under Section 498A, 420 and 406/34 of the Indian Penal Code and Section 3/4 of the Dowry Prohibition Act but the same was disposed of on the basis of the compromise entered into between the parties. The complainant made an agreement in this regard, accordingly, on 13.02.2002, the father of petitioner



no.1 executed a sale deed in favour of the opposite party no.2 and he is also paying Rs.500/- per month to opposite party no.2. It is further submitted that according to the complaint case the last occurrence was taken place on 03.01.2003 but the present complaint has been filed on 04.04.2018 i.e. after lapse of about 15 years of the occurrence. Petitioners have no criminal antecedent as mentioned in para-3 of this application.

7. Learned APP for the State opposed the prayer for bail.

8. Having regard to the facts and circumstances of the case, let the above named petitioners, be released on bail, in the event of their arrest or surrender before the learned Court below within a period of six weeks from today, on furnishing bail bond of Rs.25,000/- (Rupees Twenty Five Thousand) each with two sureties of the like amount each to the satisfaction of the learned lower Court where the case is pending/successor Court in connection with Complaint Case No.C-564 of 2018, subject to the condition as laid down under Section 438 (2) of the Cr.P.C.

(Anjani Kumar Sharan, J)

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