

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Writ Jurisdiction Case No.1327 of 2021

Arising Out of PS. Case No.-22 Year-2021 Thana- MAHILA P.S. District- Nalanda

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1. VINAY KUMAR Son of Ravindar Ravidas Resident of Village - Nauranga, P.S.- Bind, Post - Tajnipur, District - Nalanda.
 2. Ravindar Ravidas @ Ravindar Mochi Son of Mishri Ravidas Resident of Village - Nauranga, P.S.- Bind, Post - Tajnipur, District - Nalanda.
 3. Suniti Devi @ Sunita Devi Wife of Ravindar Ravidas Resident of Village - Nauranga, P.S.- Bind, Post - Tajnipur, District - Nalanda.

... .. Petitioner/s

Versus

1. The State of Bihar, Represented through The D.G.P., Bihar.
2. The Superintendent of Police, Nalanda.
3. The S.H.O. Mahila Police Station, Biharsharif at Nalanda.
4. Renu Devi Daughter of Ayodhya Ravidas Resident of Itasang, P.S.- Rahui, District - Nalanda.
5. Rajiv Kumar Das @ Rajiv Kumar Son of Ramprit Ravidas Resident of Village - Nauranga, P.S.- Bind, District - Nalanda.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr.Gopal Jha
For the Respondent/s	:	Mr.Sheo Shankar Prasad
		Mr. Anil Kumar, AC to SC – 8
		Mr. Sudhir Kumar, Adv.

CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR SINHA
ORAL ORDER

10 27-09-2023 1. Heard Mr. Gopal Jha, learned counsel for the petitioner, Mr. Sudhir Kumar, learned counsel appearing for the Respondent No. 4 and Mr. Anil Kumar, learned A.C. to Standing Counsel-8 appearing for the State.

2. The present application has been filed for quashing of the F.I.R. in connection with Mahila P.S. Case No. 22 of 2021 registered under Sections 498(A) of the I.P.C. and Section 3/4 of



the Dowry Prohibition Act.

3. Learned counsel for the petitioners submits that the petitioner no. 1 is not the husband of the respondent no. 4 / Renu Devi and not the petitioner nos. 2 & 3 are father-in-law and mother-in-law of the respondent no. 4 / informant. He next submits that the respondent no. 4 was married to the respondent no. 5 – Rajiv Kumar Das and this fact has been admitted by the respondent no. 4 in her counter affidavit. Accordingly, submission is that the petitioners have falsely been implicated in the present F.I.R. without any basis and without any material to show that the petitioner no. 1 is the husband of the respondent no. 4. Learned counsel also submits that Aadhaar Card of respondent no. 4 as well as Bank Account would go to show that she was married to the respondent no. 5 earlier.

4. On the other hand, learned counsel for the respondent no. 4 submits that it is true that respondent no. 4 was married to the respondent no. 5 earlier however the respondent no. 5 left the village for earning his livelihood and in the meanwhile intimacy of the respondent no. 4 developed with the petitioner no. 1, who has been the adjacent neighbour / villager of the respondent no. 4. The respondent no. 4 performed marriage with petitioner no. 1 in Sant Baba Mandir, Bihar Sharif



on 15-05-2019 and out of wedlock two children were born. After some time the petitioners started torturing the respondent no. 4 and ousted her from the house and refused to keep her and the children. Learned counsel further argued that for all purposes the petitioner no. 1 became the husband of the respondent no. 4 and the validity of the marriage can not be decided in quashing application of the F.I.R. particularly when after investigation Police has submitted charge sheet.

5. In reply, learned counsel for the petitioner submits that even after submission of charge sheet the Court can quash the F.I.R. as per law laid down in the case of Anand Kumar Mohatta and another versus State (NCT of Delhi), Department of Home and Another reported in (2019) 11 SCC 706.

6. I have heard the parties. From the materials available on record it is apparent that there is a dispute regarding the validity of the marriage of the petitioner no. 1 with the respondent no. 4. As claimed the ground for quashing of the F.I.R. is that the petitioner no. 1 is not the husband of the respondent no. 4. Further argument of learned counsel for the petitioners is that if the petitioner no. 1 is not the valid husband and the respondent no. 4 has married without giving divorce to her first husband i.e. respondent no. 5, it is a good ground for



quashing of criminal proceedings. It has also been argued by learned counsel for the petitioners that though there is no proof of marriage of the petitioner no. 1 with the respondent no. 4 at Sant Baba Mandir [temple] and even if for the sake of argument it is accepted that marriage is valid if the respondent no. 4 has entered into a marriage alliance with the petitioner no. 1 without giving divorce to her first husband i.e. respondent no. 5, it is settled law that F.I.R. can be quashed in terms of principles for quashing of the F.I.R. as laid down by the Hon'ble Supreme Court in the case of State of Haryana and others vs. Ch. Bhajan Lal and others reported in AIR 1992 SC 604. The parameters laid down by the Hon'ble Supreme Court for quashing of the FIRs are not attracted in the facts of the case in hand. In the present case a disputed question has been raised regarding the validity of marriage which in my opinion cannot be a ground for quashing of the F.I.R.

7. Accordingly, this this application is dismissed.

(Anil Kumar Sinha, J)

praful/-A.F.R.

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