

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.63397 of 2019

Arising Out of PS. Case No.-77 Year-2016 Thana- KHAJEKALA District- Patna

1. Ruby Sinha W/O Vishal Krishna , D/O Nageshwar Prasad Sinha Resident Of Village - Rajapur, Makhan Company Lane, P.S.- Patliputra, Dist.- Patna.
2. Nageshwar Prasad Sinha Son Of Late Bindeshwari Prasad Sinha Resident Of Village - Rajapur, Makhan Company Lane, P.S.- Patliputra, Dist.- Patna.
3. Poonam Sinha W/O Sri Nageshwar Prasad Sinha Resident Of Village - Rajapur, Makhan Company Lane, P.S.- Patliputra, Dist.- Patna.
4. Nawal Kumar Sinha Son Of Sri Nageshwar Prasad Sinha Resident Of Village - Rajapur, Makhan Company Lane, P.S.- Patliputra, Dist.- Patna.
5. Naveen Kumar @ Chandan Sri Nageshwar Prasad Sinha Resident Of Village - Rajapur, Makhan Company Lane, P.S.- Patliputra, Dist.- Patna.
6. Nandan Kumar @ Kundan Son Of Sri Nageshwar Prasad Sinha Resident Of Village - Rajapur, Makhan Company Lane, P.S.- Patliputra, Dist.- Patna.

... .. Petitioner/s

Versus

1. The State Of Bihar
2. Vishal Krishna Son Of Alok Krishna Resident Of Village - H/O Rajeev Ranjan, Diwan Mohalla, Imaam Per, P.S.- Khajekala, Dist.- Patna Permanent Resident Of Krishna Niwas Akhilesh Nagar Road No.5, Paashim Bhag, P.S.- Bypass, Dist.- Patna.

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Ranjan Kumar Sinha
For the Opposite Party/s : Mr.Rabindra Kumar- A.P.P.

CORAM: HONOURABLE MR. JUSTICE SATYAVRAT VERMA
ORAL ORDER

2 13-09-2023 1. Heard learned counsel for the petitioners and learned APP for the State.

2. The present quashing application has been filed seeking quashing of the order dated 18.06.2019 passed in Khajekhala P. S. Case No.77 of 2016, G.R. Case No.1151 of 2016 by the learned S.D.J.M., Patna City whereby charges have



been framed against the petitioners for offences under Sections 341, 323, 379, 504/ 34 of the I.P.C.

3. The learned counsel for the petitioners submits that the opposite party no.2 herein is husband of petitioner no.1. It is next submitted that petitioner no.1 was married to the opposite party no.2 in the Year 2010 and out of the wedlock, three children were born, but after marriage, the opposite party no.2 started torturing the petitioner no.1, which led to institution of complaint case, being Complaint Case No.1659(C) of 2012 in the Court of the learned S.D.J.M., Patna, in which cognizance was taken under Section 498-A of the I.P.C. read with Section 3/4 of the D. P. Act. It is next submitted that opposite party no.2 filed anticipatory bail application before the learned Sessions Judge, Patna where a compromise was entered into in between the opposite party no.2 and petitioner no.1 and thereafter, they resumed their conjugal relationship, but opposite party no.2 against started torturing her and ousted her from her matrimonial home along with the children. It is further submitted that the petitioner no.1 filed Maintenance Case No.218(M) of 2016 before the learned Principal Judge, Family Court, Patna. It is submitted that the learned Principal Judge, Family Court, Patna issued notice to the opposite party no.2, but



he did not appear and accordingly, the Maintenance Case was decided ex parte and an amount of Rs.7,000/- was directed to be paid to the petitioner by the opposite party by way of monthly maintenance.

4. It is next submitted that despite order of the learned Principal Judge, Family Court, Patna to pay a maintenance of Rs.7,000/- to the petitioner no.1, which now is in knowledge of the opposite party no.2, but still not a single farthing has been paid by the opposite party no.2 to the petitioner no.1 towards maintenance and as such, the petitioner no.1 is completely dependent on her parents for sustenance along with her children.

5. The learned counsel for the petitioners submits that the opposite party no.2 in order to create pressure on the petitioner no.1 and her family members falsely instituted the present F.I.R., so that he does not have to pay the monthly maintenance amount of Rs.7,000/-. It is next submitted that apart from the petitioner no.1 her entire family members have been implicated. It is also submitted that from bare perusal of the allegation as alleged in the F.I.R., it would manifest that the allegations are exaggerated with a view to coerce the petitioner no.1 into submission, so that she does not institute any proceeding under Section 128 of the Cr.P.C. for non-payment of



monthly maintenance as directed by the learned Principal Judge, Family Court, Patna. It is further submitted that even the police investigated the case in a mechanical manner.

6. Considering the submission made by the learned counsel for the petitioners, the Court prima facie was of the view to quash the present proceeding, but then, the learned Additional P. P. Sri Rabindra Kumar submits that since charges have been framed and the trial has commenced, the Court should not interfere at this stage.

7. Considering the submission made by the learned Additional P. P., the Court refrains from passing any order, but leaves it to the judicial discretion of the learned trial Court to proceed with the trial in accordance with law.

8. Accordingly, the quashing application is disposed of.

(Satyavrat Verma, J)

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