

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.59283 of 2017

Arising Out of PS. Case No.-340 Year-2005 Thana- VAISALI COMPLAINT CASE District-
Vaishali

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1. Mithilesh Kumar @ Mithilesh Kumar Akela and Ors son of Deonandan Chaurasia resident of village - Chandchaur Barai Tola, P.S. Ujiarpur, District - Samastipur.
 2. Deonandan Chaurasia son of Late Gena Chaurasia
 3. Raj Kumari Devi @ Raj Kumari Chaurasia wife of Deonandan Chaurasia
 4. Rubi Devi @ Kiran Kumari daughter of Deonandan Chaurasia
 5. Pawan Kumar @ Pawan Kumar Pankaj son of Deonandan Chaurasia
- Petitioner No. 2 to 5 are residents of Village - Sahpur Patori, Cinema Chouk, P.S. - Sahpur Patori, District - Samastipur.

... .. Petitioner/s

Versus

1. State Of Bihar
2. Madhu Kumari alleged wife of Mithilesh Kumar Akela and daughter of Ram Nandan Chaudhary resident of Village - Naurangabad, Dighikala, Post - Hajipur, P.S. - Hajipur Town, District - Vaishali.

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Chandra Mauli Chaurasia, Advocate
For the Opposite Party/s : Mr. Pradeep Narain Kumar, APP

CORAM: HONOURABLE MR. JUSTICE SANDEEP KUMAR
ORAL ORDER

6 28-03-2023 Heard the parties.

This application has been filed for quashing of the order dated 13.07.2017 passed by the learned Sub-Divisional Judicial Magistrate, Vaishali at Hajipur in complaint case no. 340 of 2005, T.R. No. 393 of 2017.

As per the prosecution story:- “The complainant -O.P. No. 2 namely Madhu Kumari was married with Mithilesh Kumar Akela (Petitioner No. 1) the son of the Petitioner No. 2 and 3 on 16.4.1995 according to



the Hindu rites and customs in Bari Patan Devi Mandir, Patna and at the time of her marriage, the mother of the complainant -O.P. No. 2 and her other relatives had given gift a cash of Rs. 1,10,000/- and ornaments of gold etc. worth of RS. 60,000/ to the petitioner no. 1 and at the time of marriage the accused- petitioners had demanded Rs. 50,000/- and when the parents of the complainant assured to pay the said amount after the marriage then the marriage ceremony was performed and the complainant -O.P. No. 2 went to her marriage place along with her Husband Mithilesh Kumar 'Akela' (Petitioner No. 1) and after sometime it was transpired by the complainant- O.P. No. 2 in her sasural that her Husband (petitioner no. 1) is not a man of her caste rather he belongs to Badhai (carpenter) caste and sometime during the stay of the complainant- O.P. No. 2 in her marriage place, the accused- petitioners demanded a cash of Rs. 50,000/- from the complainant-O.P. No. 2 to bring the same from her parents for which she showed her inability to pay the said amount and all the accused persons began to give torture the complainant-O.P. No. 2 and later on the complainant-O.P. No. 2 came to know that her Husband (petitioner no. 1) has already a married wife namely Rekha Devi and has a female issues from her. It has further been alleged in the complaint petition by the complainant-O.P. No. 2 that in the course of her stay in her sasural, Rekha Devi came there along with her children and on her arrival it came to the knowledge of the complainant-O.P. No. 2 that her Husband is a man of criminal mentality and he extorts public money as a fake inspector and as a result of her marriage with Mithilesh Kumar 'Akela' (Petitioner No. 1) a male child was born to the complainant-O.P. No. 2 who is 7 ½ years old. It has further been alleged in the complaint petition by the complainant-O.P. No. 2 that she sold her ornaments and purchased a piece of land in Hajipur Town and constructed



a small residential house and she began to live with her mother and when the accused persons knew the said facts they often tortured the complainant-O.P. No. 2 there and later on the Accused Mithilesh Kumar 'Akela' (Petitioner No. 1) again took the complainant-O.P. No. 2 to his house and in usual fashion he began to demand Rs. 50,000/- cash from the complainant-O.P. No. 2 and on account of failure to pay the said demand, the Accused persons treated the complainant-O.P. No. 2 with cruelty and torture and did not provide food and ultimately on 15.2.2004, the accused persons ousted the complainant-O.P. No. 2 and her child from the House by assaulting her and later on the steps for compromise was taken but the accused persons did not ready unless she would pay Rs. 50,000/- in cash to the accused persons or to transfer her land of Hajipur Town they would not allow the complainant-O.P. No. 2 to live in her marriage place and ultimately on 13.2.2005 the accused persons flatly refused to keep the complainant-O.P. No. 2 in their house and hence the instant complaint is being filed on behalf of the complainant-O.P. No. 2 in the Court of learned C.J.M., Vaishali at Hajipur on 15.2.2005 vide complaint case No. 340 of 2005 for alleged offences under Sections 498 'A', 323, 406, 494, 420 and 120 'B' of the I.P.C. read with under Sections 3 and 4 of the Dowry Prohibition Act against the petitioners."

The following order was passed on 13.08.2018:-

"The petitioners have challenged the order dated 13.07.2017 passed by the learned Sub-Divisional Judicial Magistrate, Vaishali at Hajipur in connection with Complaint Case No. 340 of 2005, T.R. No. 393 of 2017 whereby the prayer for discharge under Section 245 of the Code of Criminal Procedure has been rejected.

The learned counsel for the petitioners has submitted that despite there being cogent evidence with respect to complainant/O.P. No. 2 having falsely made complaint against the petitioners, the prayer for discharge has been rejected. It has further been submitted that



petitioner No. 1 who is alleged to be the husband of the complainant/O.P. No. 2, was married to one Rekha Devi from before and from the Wedlock, three children have been born.

While the petitioner No. 1 had approached this Court PAN for grant of anticipatory bail on the ground that complainant/O.P. No. 2 had falsely projected herself as his wife, an enquiry was directed by this Court regarding the correctness of the assertion of marriage of the petitioner No. 1 with the complainant/O.P. No. 2 on a particular date as alleged in the complaint petition and the enquiry revealed that no such marriage had taken place on the date on which the complainant/O.P. No. 2 claimed to have married petitioner No. 1. There are other materials on record also to demonstrate that a false case has been instituted by the complainant/O.P. No. 2 for extracting money from petitioner No. 1 and his family members.

Issue notice to the O.P. No. 2 by registered post with A/D as well as ordinary process, on steps being taken by the petitioners within a period of two weeks from today, returnable on 24th of September, 2018.

The learned counsel for the petitioners has submitted that on 02.08.2018, charges have already been framed.

In any view of the matter, all further proceedings before the Court below with regard to the petitioners shall remain stayed."

After the order dated 13.08.2018, the opposite party has chosen not to appear though there is valid service of notice upon her by substituted service.

In these circumstances, no useful purpose will be served by keeping this case pending.

Considering the report of the S.S.P., Patna dated 13.07.2007 and considering the fact that the O.P. no. 2 is avoiding appearance. In view of the report, no marriage was solemnized with the petitioner no. 2.

Considering the aforesaid, this application is allowed



and the order dated 13.07.2017 passed by the learned Sub-Divisional Judicial Magistrate, Vaishali at Hajipur in complaint case no. 340 of 2005, T.R. No. 393 of 2017 is hereby quashed.

(Sandeep Kumar, J)

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