

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.25150 of 2016

Arising Out of PS. Case No.-340 Year-2015 Thana- BHABHU(KAIMUR) COMPLAIN C
District- Kaimur (Bhabua)

-
1. Vindhya wasni Devi Wife of Babulal Jaiswal.
 2. Sunil Jaiswal, son of Babulal Jaiswal.
 3. Sushil Kumar @ Sushil Jaiswal @ Pappu, son of Babulal Jaiswal.
 4. Sudhir Jaiswal @ Pintu, son of Babulal Jaiswal,

All are residents of Mohalla- Dharamdhala, Road, Robertganj, Ward No.
15/20, P.S.- Robertganj, District- Sonbhadra U.P..

... .. Petitioner/s

Versus

1. State Of Bihar
2. Dinanath Sah, son of Shiv Sah, Resident of Village- Punaon, P.O-
Kharendra, P.S.-Velaon, District- Kaimur Bhabhua.

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. Surendra Kumar Mishra, Advocate
		Mr. Rajnikant Singh, Advocate
For the State	:	Mr. Binod Kumar No.3, APP

CORAM: HONOURABLE MR. JUSTICE SHAILENDRA SINGH
ORAL ORDER

9 29-10-2024 The instant criminal miscellaneous petition has been filed under Section 482 of the Code of Criminal Procedure (in short 'Cr. P. C.') for quashing the order dated 15.02.2016 passed in connection with Complaint Case No. 340 of 2015 by learned Sub-Divisional Judicial Magistrate, Bhabua (Kaimur) whereby and whereunder the learned Sub-Divisional Judicial Magistrate has taken cognizance of the offence punishable under Section 4 of Dowry Prohibition Act against the petitioners.



2. Mr. Surendra Kumar Mishra, learned counsel appearing for the petitioners submits that the entire prosecution story narrated in the complaint filed by O.P. No. 2 is completely false and concocted, in fact, the complainant (O.P. No.2) went to the residence of the petitioners for marrying his daughter and he was putting pressure on petitioner nos. 1, 2 and 3 for marrying his daughter with petitioner no.4 for which the petitioner nos. 1, 2 and 3 were not ready upon which the O.P. No.2 became angry and threatened the petitioners to teach them a lesson. It is further submitted that as per the complainant the petitioners denied to perform the marriage of the daughter of O.P. No.2 with the petitioner no.4 mainly on the ground that the petitioner no.4 got government service and thereafter a demand of Rs. 5 lakhs and a vehicle was made but the said allegation is completely false and in this regard the notification (Annexure-2) issued by the Uttar Pradesh Government is relevant and the same shows that the petitioner no.4 got his service in Panchayat Department on the post of Sweeper in the year, 2008, so there was no reason for the petitioners to make the alleged demand from the O.P. No.2 mainly on account of getting government job of Sweeper by petitioner no.4 as that job had already been got by the said petitioner several years before the first alleged



talk of the marriage. Learned counsel further submits that the first part of the alleged occurrence relating to giving gifts of money/cash and ornaments to the petitioners by the O.P. No.2 took place on 20.04.2014 but the complaint was filed in the year 2015 on 26.03.2015 though the second part relating to the demand of Rs. 5 lakhs and an Alto car is said to have taken place after the first negotiation of the marriage but regarding that demand, the O.P. No.2 has not disclosed any date and time and in this regard the allegation is completely vague. It is further submitted that in the complaint there is no specific allegation against the petitioner nos. 3, 4 and 5 and there is no any independent witness.

3. No one appears on behalf of O.P. No. 2.

4. Mr. Binod Kumar No.3, learned APP appearing for the State submits that there is specific allegation against the petitioner no.1, who is alleged to have made a demand of Rs. 5 lakhs and one Alto car in dowry.

5. Heard both the sides and perused the order impugned as well as other relevant materials. I find force in the above submissions made by petitioners' counsel as the alleged first part of the marriage negotiation took place in the year 2014 but the complaint with regard to the second part of the alleged



occurrence relating to the demand of dowry of Rs. 5 lakhs and one Alto car was filed in the year 2015 and further only the relatives have been cited as witnesses in the complaint. It is also relevant to mention that the petitioner no.4 got his government service in the year 2008 and as per the complaint the marriage negotiation started in the year 2014 so the allegation as to demanding of Rs. 5 lakhs and an Alto car mainly on the ground of petitioner no.4 getting a government job appears to be not believable. Accordingly, I am of the opinion that the instant matter relates to malicious prosecution and the O.P. No.2 filed his complaint with malicious intention to harass the petitioners and in view of the above submissions as well as considering other facts and circumstances appearing from the complaint and statements of the witnesses examined by the complainant before the trial court, the alleged offence under Section 4 of Dowry Prohibition Act of which cognizance has been taken does not attract even *prima facie* in this matter, as such, the order impugned is hereby set aside and the entire criminal proceedings having arisen in the Complaint Case No. 340 of 2015 after the cognizance of the alleged offence is hereby quashed.

6. In the result, the instant Criminal Miscellaneous



petition stands allowed.

(Shailendra Singh, J)

Rajiv/-

U			
---	--	--	--

