

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.11617 of 2020

Arising Out of PS. Case No.-1947 Year-2018 Thana- PATNA COMPLAINT CASE District-
Patna

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1. ARJUN PANDIT @ ARJUN PRASAD SHARMA S/o Late Ganesh Pandit
R/o village- Mafi, P.S.- Warisaliganj, District- Nawada
 2. Girija Devi W/o Arjun Pandit @ Arjun Prasad Sharma R/o village- Mafi,
P.S.- Warisaliganj, District- Nawada

... .. Petitioner/s

Versus

1. THE STATE OF BIHAR
2. Ragni Priya D/o Late Tarkeshwar Kumar, W/o Narendra Pandit Residing at
Makhdumpur, P.O. and P.S.- Beur (Anishabad), Patna- 800002

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Rajeev Nayan

For the Opposite Party/s : Mr. Sanjay Kumar Singh, APP

CORAM: HONOURABLE MR. JUSTICE SUNIL KUMAR PANWAR
ORAL JUDGMENT

Date : 11-07-2024

Heard learned counsel for the petitioner, learned counsel
for the informant and learned APP for the State.

The present application has been preferred for quashing
the order dated 8.1.2019 passed in Complaint Case No. 1947 of
2018 by learned Sub-Divisional Judicial Magistrate, Patna
whereby cognizance for the offence punishable under Sections
498(A) of Indian Penal Code and Section 4 of the Dowry
Prohibition Act has been taken against the petitioners.

2. As per the allegation in the FIR, the complainant got
married to the son of the petitioners, namely, Narendra Pandit
on 6.6.2014 and on account of marriage, her parents' made total
expenditure of 15 lakhs including purchase of ornaments and



furniture worth Rs. 6,00,000/- (six lakh). Marriage on scheduled date could not be performed due to sudden demand of a four-wheeler. After marriage her Bidayi happened on 7.6.2014 and from the beginning date of marriage, complainant's husband and sasural members started to torture her for demand of five lakh or one four wheeler. After 15 days, complainant left her matrimonial home with her brother. It is further alleged that husband of the complainant came to Patna for treatment of his father and on asking, complainant helped him with Rs. 50,000/- in treatment. In the year 2016, on the occasion of Holi, her husband came to her parental house to take her back to her sasural but she again returned to her parental house on very next date due to ill treatment by sasural members. It is further alleged that father of the complainant expired in the month of September, 2016 but no one came from her sasural to attend Sharadh Karm.

3. Learned counsel appearing on behalf of the petitioners has submitted that both the petitioners are parents-in-law of the complainant. They are innocent and have committed no offence and have been implicated wrongly and falsely in this case. There is no specific allegation against the petitioners. Complainant herself is a panchayat teacher and son of the petitioners is an



unemployed person and their parents arranged marriage of both the parties without any gift or dowry.

4. It is submitted that complainant is not interested in restitution of her conjugal life as she is a school teacher and she not even visited her matrimonial home during school vacations and festival holiday. It is unbelievable fact that after marriage, demand of four wheeler was made by an un-employed husband, who has no capacity even to maintain it. Allegedly, she was assaulted brutally at her matrimonial home but no complaint was made in this regard anywhere, nor she was even been treated anywhere. It is further submitted that these two petitioners had hardly any occasion to stay with the complainant after her marriage. With an intention to implicate each and every member of the family of her husband, the complainant had made totally ornamental allegations.

5. Learned counsel for the petitioner further submits that in course of inquiry in complaint case, altogether four witnesses were examined i.e complainat, her mother, her sister and Manik Pandit. They have stated that petitioners have tortured the complainant for non-fulfillment of four wheeler or cash of Rs. 5,00,000/- but in FIR nowhere date of demand or manner of torture is mentioned. Complaint case was lodged on



5.5.2018 after four years of marriage, in retaliation of matrimonial case, filed by her husband in the year 2016.

6. Learned APP appearing for the State has opposed the prayer of bail. By way of filing counter affidavit, learned counsel for the opposite party has brought the fact on record that both the petitioners are parents-in-law of the complainant and they have received Rs. Five lakhs cash in their hand. After marriage, they also demanded cash and four wheeler from the opposite party no. 2. They have suppressed their age in the petition. They tortured the victim lady (O.P. No. 2) mentally and physically. Cognizance has rightly been taken against the petitioners by learned S.D.J.M. Court, Patna vide order dt. 8.1.2019.

7. Before dealing with the merit of present quashing application, it is necessary to consider the nature and scope of the inherited power of the High Court under Section 482 of Cr.P.C. The said Section saves the inherent power of the High Court to make fresh orders as measures necessary in three different situations.

(a) to give effect to an order under this Court.

(b) to prevent abuse of the process of the Court.



(c) to otherwise secure the ends of justice.

8. Relying upon the judgment of the Hon'ble Supreme Court in the case of Sushil Kumar Sharma Vs. Union of India and Ors. Reported in (2005) 6 SCC 281, learned counsel for the petitioners submits that in the said case, the Hon'ble Apex Court has taken judicial notice of the fact that many instances have come to light here the complaints are not bonafide and have been filed with an oblique motive. The Hon'ble Apex Court has noticed that the near relatives, kith and kin of the husband have been falsely implicated just to harass them. In this regard, reliance has been placed on the judgments of the Hon'ble Supreme Court in the case of **Rajesh Sharma and Ors. Vs. State of U.P. & Anr.** Reported in (2018) 10 SCC 472, **Arnesh Kumar Vs. State of Bihar and Anr.** Reported in (2014) 8 SCC 273 and **Preeti Gupta & Anr. Vs. State of Jharkhand and Anr.** Reported in (2010) 7 SCC 667. It is submitted that as a result of the outburst of matrimonial dispute, in recent times, the cases of false implication have been increased and the Hon'ble Apex Court has put a word of caution saying that the Court should be careful in proceeding against the distant relatives in crimes pertaining to matrimonial disputes and dowry death.

9. In the case of **Arnesh Kumar (Supra)**, in



paragraph '4' their Lordships have taken note of the phenomenal increase in matrimonial disputes in recent years and have noticed that how in a large number of cases, bedridden grandfathers and grandmothers of the husband, their sisters living abroad for decades are being arrested. The observations made in paragraph '4' of the said judgment are being reproduced hereunder:-

“4. There is a phenomenal increase in matrimonial disputes in recent years. The institution of marriage is greatly revered in this country. Section 498-A IPC was introduced with avowed object to combat the menace of harassment to a woman at the hands of her husband and his relatives. The fact that Section 498-A IPC is a cognizable and non-bailable offence has lent it a dubious place of pride amongst the provisions that are used as weapons rather than shield by disgruntled wives. The simplest way to harass is to get the husband and his relatives arrested under the provision. In a quite number of cases, bedridden grandfathers and grandmothers of the husbands, their sisters living abroad for decades are arrested.”Crime in India 2012 Statics” published by the National Crime Records Bureau, Ministry of Home Affairs shows arrest of 1,97,762 persons all over India during the year 2012 for the offence u/s 498A IPC, 9.4% more than the year 2011. Nearly a quarter of those arrested under this provision in 2012 were women i.e. 47,951 which depicts that mothers and sisters of the husbands were liberally included in their arrest net. Its share is 6% out of the total persons arrested under the crimes committed under



the Penal Code. It accounts of 4.5% of total crimes committed under different sections of the Penal Code, more that any other crimes excepting theft and hurt. The rate of charge-sheeting in cases under Section 498-A IPC is as high as 93.6% while the conviction rate is only 15%, which is lowest across all heads. As many as 3,72,706 cases are pending trial of which on current estimate, nearly 3,17,000 are likely to result in acquittal.”

10. In the case of **Preeti Gupta & Anr. (Supra)**, the Hon’ble Apex Court has observed in paragraphs 32, 33, 34, 35 and 36 as under:-

“32. It is a matter of common experience that most of these complaints under Section 498-A IPC are filed in the heat of the moment over trivial issues without proper deliberations, We come across a large number of such complaints which are not even bone fide and are filed with oblique motive. At the same time, rapid increase in the number of genuine cases of dowry harassment is also a matter of serious concern.

33. The learned members of the Bar have enormous social responsibility and obligation to ensure that the social fibre of family life is not ruined or demolished. They must ensure that exaggerated versions of small incidents should not be reflected in the criminal complaints. Majority of the complaints are filed either on their advice or with their concurrence. The learned members of the Bar who belong to a noble profession must maintain its noble traditions and should treat every complaint under Section 498-A as a basis human problem and must



make serious endeavor to help the parties in arriving at an amicable resolution of that human problem. Them must discharge their duties to the best of their abilities to ensure that social fibre, peace and tranquility of the society remains intact. The members of the Bar should also ensure that one complaint should not lead to multiple cases.

34. Unfortunately, at the time of filing of the complaint the implications and consequences are not properly visualized by the complainant that such complaint can lead to insurmountable harassment, agony and pain to the complainant, accused and his close relations.

35. The ultimate object of justice is to find out the truth and punish the guilty and protect the innocent. To find out the truth is a Herculean task in majority of these complaints. The tendency of implicating the husband and all his immediate relations is also not uncommon. At times, even after the conclusion of the criminal trial, it is difficult to ascertain the real truth. The courts have to be extremely careful and cautious in dealing with these complaints and must take pragmatic realities into consideration while dealing with matrimonial cases. The allegations of harassment of husband's close relations who had been living in different cities and never visited or rarely visited the place where the complainant resided would have an entirely different complexion. The allegations of the complainant are required to be scrutinized with great care and circumspection.

36. Experience reveals that long and protracted criminal trials lead to reacour, acrimony and bitterness in the relationship amongst the parties. It is also a matter of common knowledge that in cases



filed by the complainant if the husband or the husband's relations had to remain in jail even for a few days, it would ruin the chances of an amicable settlement altogether. The process of suffering is extremely long and painful.”

11. Hon'ble Apex Court in the case of ***Preeti Gupta & another vs. State of Jharkhand & another***, reported in (2010) 7 SCC 667 has been pleased to rule that there should be a clear allegation against the relatives of the husband and vague & omnibus allegation would not be sufficient to compel them to undergo agony of the trial.

12. Hon'ble Apex Court in the case of ***Arnesh Kumar vs. State of Bihar and Another*** reported in (2014) 8 SCC 273 has cautioned the courts with regard to proceeding against in-laws and distant relatives of the husband of the wife involved in the offence under Section 498(A) of the I.P.C. and other relevant offences.

13. After considering the aforesaid factual and legal discussions, I am of this view that the present case is misuse and abuse of due process of law. The petitioners have been dragged unnecessarily in this case without their fault. General and omnibus allegations are levelled against both the petitioners who are parents-in-law of the complainant.

14. Accordingly, this Cr. Misc. application is allowed and the cognizance order dated 08.01.2019, passed in Complaint



Case No. 1947 of 2018 passed by Sub Divisional Judicial Magistrate, Patna is quashed and set aside with regard to these petitioners.

(Sunil Kumar Panwar, J)

sushma/-

AFR/NAFR	NAFR
CAV DATE	11.7.2024
Uploading Date	20.7.2024
Transmission Date	20.7.2024

