

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.29147 of 2021

Arising Out of PS. Case No.-382 Year-2017 Thana- BELAGANJ District- Gaya

1. Faridi Bano @ Farhin Azamy, Daughter of Md. Shamim Alam, Resident of Village- Parwal Bigha, P.S. - Belaganj, District- Gaya.
2. Sibbi Bano @ Farzana Shams, Wife of Tabrez Shams, Resident of Village- Chatrghat, P.S.- Chakand, District- Gaya.
3. Farhat Bano Wife of Md. Irfan, Resident of Village- Chandauti, P.S. - Belaganj, District- Gaya.
4. Md. Irfan Son of Md. Hassim Resident of Village- Chandauti, P.S. - Belaganj, District- Gaya.

... .. Petitioner/s

Versus

1. The State of Bihar
2. Amana Praveen Daughter of Istiyaque, Resident of Village- Parwal Bigha, P.S. - Belaganj, District- Gaya.

... .. Opposite Party/s

Appearance :

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For the Petitioner/s	:	Mr. Binod Kumar, Advocate
For State	:	Mr. A. Ali, APP
For the Opposite Party/s	:	Mr. Kunwar Narayan Jamuar, Advocate

CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR

ORAL JUDGMENT

Date : 09-08-2024

Heard Mr. Binod Kumar, learned Advocate for the petitioners and the learned APP for the State. The Opposite Party No. 2 appears through Mr. Kunwar Narayan Jamuar, learned Advocate.

2. The petitioners are seeking quashing of the order dated 26.11.2018, passed in Belaganj P.S. Case No. 382 of 2017 by the learned Additional Chief Judicial Magistrate-XI, Gaya whereby the learned Court has taken cognizance of the offences punishable under Section 498-A of the Indian Penal Code and



Sections 3 and 4 of the Dowry Prohibition Act, 1961.

3. Allegedly, the marriage of the informant/opposite party no. 2 was solemnized with Md. Faisal Alam, son of Md. Shamim Alam on 17.10.2016 as per Muslim rites and rituals. There is allegation of demand of dowry and on account of non-fulfillment, the opposite party no. 2 was subjected to torture in various ways. The petitioner no. 1 is unmarried sister-in-law, petitioner nos. 2 and 3 are married sister-in-laws, whereas petitioner no. 4 is bother-in-law and husband of petitioner no. 3.

4. Learned Advocate for the petitioners adverting the aforesaid facts drew the attention of this Court to the FIR and submitted that there is no allegation as to how the petitioners were instrumental in making demand of dowry or tortured on account of non-fulfillment of the same. It is further contended that what is meant by cruelty, as per Section 498-A of the Indian Penal Code has been explained in explanation to the Section. The explanation consists of two alternative postulates and either of the alternatives would amount to cruelty. It is further contended that any willful conduct which is of such a nature as is likely to drive the woman to commit suicide or to cause grave injury or danger to life, limb or health of the woman and further the harassment of a woman where such harassment is with a



view to coercing her or any person related to her to meet any unlawful demand for any property or valuable security or is on account of failure by her or any person related to her to meet such demand.

5. The allegation levelled in the FIR even taken to its entirety do not constitute any offence, much less against the petitioners, is the contention of the learned Advocate for the petitioners. Time without number, the Apex Court in umpteen number of decisions held that implication of the in-laws persons and other relatives of the husband without there being specific allegation is done only with a view to wreck vengeance and put pressure upon the husband to come to an amicable settlement.

6. On the other hand, learned Advocate for the Opposite Party No. 2 vehemently opposes the prayer of the petitioners and submitted that the petitioners have actively participated in causing the demand of dowry or torturing the Opposite Party No. 2. There is allegation in the FIR against them.

7. This Court has anxiously heard the learned Advocate for the respective parties and also perused the allegation levelled in the FIR as well as the order taking cognizance.



8. The allegation and the materials available on record reveal that the petitioner no. 2 and 3 are married sister-in-laws (Nanad) and petitioner no. 4 is the husband of the petitioner no. 3, who have been residing in a distinct accommodation and they have been separate in their mess and business. So far as the petitioner no. 1 is concerned, she is unmarried sister-in-law, except the petitioners are named, there is no allegation of any overt act warranting any criminal prosecution against them.

9. It would be worth noting that the Hon'ble Supreme Court in the case of **K. Subba Rao v. State of Telangana, (2018) 14 SCC 452** in uncertain term held that "Criminal proceedings are not normally interdicted at the interlocutory stage unless there is an abuse of the process of the Court:

"6. Criminal proceedings are not normally interdicted by us at the interlocutory stage unless there is an abuse of the process of a court. This Court, at the same time, does not hesitate to interfere to secure the ends of justice. See State of Haryana v. Bhajan Lal [State of Haryana v. Bhajan Lal, 1992 Supp (1) SCC 335 : 1992 SCC (Cri) 426]. The courts should be careful in proceeding against the distant relatives in crimes pertaining to matrimonial disputes and dowry deaths. The relatives of the husband should not be roped in on the basis of omnibus allegations unless specific instances of their involvement in the crime are made



out. See Kans Raj v. State of Punjab [Kans Raj v. State of Punjab, (2000) 5 SCC 207 : 2000 SCC (Cri) 935] and Kailash Chandra Agrawal v. State of U.P. [Kailash Chandra Agrawal v. State of U.P., (2014) 16 SCC 551 : (2015) 3 SCC (Cri) 536]”

10. In view of the aforementioned facts and the mandate of law, this Court finds substance in the contention of the learned Advocate for the petitioners and, as such, the continuation of the proceeding arising out of Belaganj P.S. Case No. 382 of 2017 as well as the order taking cognizance dated 26.11.2018 passed by the learned Additional Chief Judicial Magistrate-XI, Gaya to the extent it relates to the petitioners is an abuse of the process of the Court and are hereby quashed.

11. The present quashing application stands allowed.

(Harish Kumar, J)

Jyoti/uday/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	12 .08.2024
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