

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**CRIMINAL MISCELLANEOUS No.9745 of 2018**

Arising Out of PS. Case No.-241 Year-2017 Thana- PATNA COMPLAINT CASE District-  
Patna

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1. Vijay Kumar Pandey, Son of Late Kailash Pandey
  2. Anita Kumari @ Anita Pandey, Wife of Sri Vijay Kumar Pandey.
  3. Ajay Kumar @ Ajay Kumar Pandey Son of Sri Vijay Kumar Pandey All Resident of Near Dinkar High School, Barbigha Bus Stand, Dinkar Chauk, Barbigha, P.S.-Barbigha, District-Sheikhpura Bihar.

... .. Petitioner/s

Versus

1. The State Of Bihar
2. Sanjeev Kumar, Son of Sri Sidheshwar Pandey Resident of C/o Sri Subodh Kumar Pandey, Gali no.3, Mainpura Bagicha, L.C.T. Ghat, Mainpura, Patna Sadar, P.S.-Patliputra, Town and District-Patna Bihar.

... .. Opposite Party/s

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**Appearance :**

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|---------------------------|---|-------------------------------|
| For the Petitioner/s      | : | Mr. Mritunjay Kumar           |
| For the State             | : | Mr. Md. Ashlam Ansari- A.P.P. |
| For Opposite Party No.2 : |   | Mr. Ashutosh Nath             |
|                           |   | Mr. Binod Kumar               |

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**CORAM: HONOURABLE MR. JUSTICE SATYAVRAT VERMA**  
**ORAL ORDER**

3      23-01-2024                      1. Heard   learned   counsel   for   the   petitioners,  
  
learned counsel for the opposite party no.2 and learned APP  
  
for the State.

2. The learned counsel for the petitioners submits  
  
that the present quashing application has been filed seeking  
  
quashing of the order dated 17.04.2017 passed by the  
  
learned Additional Chief Judicial Magistrate- XIIth, Patna in  
  
Complaint Case No.241(C) of 2017, whereby cognizance of



offence under Sections 403, 494, 497, 379, 504, 506 and 120(B) of the I.P.C. has been taken against the petitioners.

3. The learned counsel for the petitioners submits that the opposite party no.2 was married to Vinita Pandey in the Year 12.02.2015. It is next submitted that petitioner nos.1 and 2 are father in-law and mother in-law and petitioner no.3 is brother in-law of opposite party no.2. It is next submitted that the marriage of opposite party no.2 with Vinita Pandey was performed in the Year 2015 and the present complaint came to be instituted in the Year 2017 with an allegation that Vinita Pandey has already performed her second marriage with Kundan Kumar. The learned counsel thus submits that even presuming what has been alleged is true without admitting, then how the petitioners, who are parents and brother of Vinita Pandey, can be prosecuted for an offence committed by their daughter and sister. It is further submitted that in the complaint petition also the opposite party no.2 has not specifically pleaded that Vinita Pandey married Kundan Kumar with the consent of the petitioners or the petitioners were instrumental in getting



her marriage to Kundan Kumar. It is next submitted that being parents and brother, they do not have control over their daughter's decision and if Vinita Pandey has married Kundan Kumar on her own sweet-will, in that event, the petitioners cannot be held criminally liable, when the opposite party no.2 in the complaint has not specifically alleged about their involvement. It is next submitted that the Hindu Marriage is a sacrament and if what has been alleged by the opposite party no.2 is correct, in that event, the marriage of Vinita Pandey with Kundan Kumar is null and void as without seeking divorce Vinita Pandey could not have performed her second marriage with Kundan Kumar.

4. The learned counsel for the petitioners next submits that petitioners no.1 and 2 are senior citizen and petitioner no.3 sings devotional songs. It is submitted that petitioners are being harassed by the opposite party no.2 for reasons best known. The learned counsel for the petitioners after making his submissions, at this stage, fairly submits that the petitioners have also moved before the learned Sessions Judge, Patna by filing Cr. Revision No.95 of 2019



against the order taking cognizance dated 17.04.2017.

5. The learned Additional P. P. thus submits that since petitioners are already availing their remedy before the learned Sessions Judge, as such, the present quashing application appears to be prematured.

6. The learned counsel for the petitioners, at this stage, submits that the Court can still exercise its inherent power under Section 482 of the Cr.P.C., even if Criminal Revision is pending consideration before the learned Sessions Judge, if the Court comes to a conclusion that the case instituted against the petitioners is an abuse of the process of the Court.

7. The said submission of the learned counsel for the petitioners is rebutted by the learned counsel for the opposite party no.2 and submits that when there is an alternative remedy available, then an application under Section 482 of the Cr.P.C. be not entertained.

8. Since the Criminal Revision No.95 of 2019 is pending consideration before the learned Sessions Judge, as such, the Court is not inclined to entertain the quashing



application.

9. However, the quashing application is disposed of with a direction to the learned Sessions Judge, Patna to decide the Cr. Revision No.95 of 2019, expeditiously and preferably within a period of three months from the date of receipt/production of a copy of this order.

10. The quashing application is thus disposed of.

**(Satyavrat Verma, J)**

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