

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.33316 of 2019

Arising Out of PS. Case No.-1094 Year-2016 Thana- BHAGALPUR COMPLAINT CASE
District- Bhagalpur

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1. Ashok Prasad Singh S/O Late Ayodhya Prasad Resident Of Sadhua, P.S.- Gopalpur, District- Bhagalpur
 2. Sonia Devi W/O Sri Ashok Prasad Singh Resident Of Sadhua, P.S.- Gopalpur, District- Bhagalpur
 3. Puja Kumari @ Puja Devi W/O Sri Manish Kumar Singh Resident Of Sadhua, P.S.- Gopalpur, District- Bhagalpur
 4. Sajan Kumari D/O Ambika Singh R/O Village- Parelbasa, P.S.- Rakbara, District- Madhepura

... .. Petitioner/s

Versus

1. The State Of Bihar
2. Chandrasena Devi W/O Sri Chandrashekhar Kumar Singh, D/O Sri Bhagirath Prasad Singh Resident Of Laluchak Angari, P.S.- Lodipur, District- Bhagalpur. (complainant)

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Diwakar Upadhyaya
For the Opposite Party/s : Mr.Choubey Jawahar

CORAM: HONOURABLE MR. JUSTICE SUNIL KUMAR PANWAR
ORAL JUDGMENT

Date: 04-07-2024

The present application has been preferred for quashing the order dated 19th of December, 2016 passed in complaint case No. 1094 of 2016, passed by learned A.C.J.M. XIII, Bhagalpur whereby cognizance for the offence punishable under Section 498(A) of Indian Penal Code has been taken against all the accused persons named in the



complaint petition.

2. The case of complainant, namely, Chandrasena Devi, in brief is that the marriage of the complainant was solemnized with the co-accused Chandrasekhar Kumar Singh on 15th of July, 2000. The husband of the complainant is in Govt. Service and engaged in Bihar Military Police. It has further been alleged that out of the said wedlock one son (aged about 12 years) and one daughter (aged about 9 years) were born. The husband has made arrangement at Bhagalpur for their stay and education. It is further alleged that in the month of February, 2016 when the complainant went to her *sasural*, she found the behavior of her in-laws changed. The father-in-law demanded a four wheeler and when the complainant showed her inability to pay them, all the accused persons assaulted her and ousted her from the house. The complainant thereof came to know that her husband is living together with the sister-in-law of accused Manish Kumar Singh and they were living together.

3. Learned counsel appearing on behalf of the petitioners submitted that all the petitioners are in-laws of



opposite party No. 2. Petitioner No. 1 is father-in-law, petitioner No. 2 is mother-in-law, petitioner No. 3 is Gotini of the complainant and petitioner No. 4 is sister of petitioner No. 3. It is further submitted that husband of the complainant (co-accused) has built a separate house at Bhagalpur for the complainant and is keeping his wife and children there. He regularly used to visit there and give money for their expenses. The dispute, if any, between husband and wife (complainant) the petitioners are not at all concerned with their affairs. The petitioners are separate from the complainant and her husband. The petitioners are innocent and have committed no offence and have been implicated wrongly and falsely in this case. It is further submitted that the present case is an absolute misuse and abuse of due process of law. The relatives of the husband have been dragged unnecessarily in this case.

4. In contra, learned A.P.P. duly assisted by learned counsel appearing on behalf of O.P. No. 2 while opposing the prayer of application submitted that petitioners have actively participated in the occurrence and as such a



prima-facie case is made out against them.

5. 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.

6. In this regard, in the case of **Dhruvaram Murlidhar Sonar vs. State of Maharashtra**, reported in **2019 (18) SCC 191** in its paragraph no. 13, it has been held that for quashing the proceedings, meticulous analysis of factum of taking cognizance of an offence by Magistrate not called for. Appreciation of evidence is also not permissible in exercise of inherent powers. If the allegations set out in the complaint does not constitute the offence of which cognizance has been taken. It is open to the High



Court to quash the same in the exercise of inherent powers.

7. 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.

8. Hon'ble Apex Court in the case of ***Arnesh Kumar vs. State of Bihar and Another*** reported in **(2014) 8 SCC 273** has been pleased to observe that there is a phenomenal increase in matrimonial disputes in recent years. The institution of marriage is greatly revered in this country. Section 498(A) I.P.C. 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) I.P.C. 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. This simplest way to harass is to get the husband and his relatives arrested under this provision. In a quite number of



cases, bedridden grandfathers and grandmothers of the husbands, their sisters living abroad for decades are arrested. In the said case, the Supreme Court 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.

9. After considering the 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 as being relatives of the husband have been dragged unnecessarily in this case. The petitioners are in-laws of the opposite party No. 2 and facing general and omnibus allegation. The petitioners are not concerned at all with the affairs of O.P. No. 2 and her husband. The petitioners are separate from complainant and her husband.

10. Accordingly, this Cr. Misc. Application is allowed and the cognizance order dated 19.12.2016 passed by Additional Chief Judicial Magistrate XIII, Bhagalpur in complaint case No. 1094 of 2016 is hereby quashed and set



aside with regard to present petitioners.

(Sunil Kumar Panwar, J)

Nirajkrs/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	09.07.2024
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