

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.35872 of 2016

Arising Out of PS. Case No.-607 Year-2011 Thana- BUXAR COMPLAINT CASE District-
Buxar

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1. Janardhan Yadav @ Janardan Singh and Ors Son of Late Ramayan Yadav
 2. Dewanti Devi Wife of Janardhan Yadav @ Janardan Singh
 3. Pawan Kumar Yadav son of Janardhan Yadav @ Janardan Singh All are Resident of Village Chaki Bhola Dera P.O. + P.S. Brahampur, District- Buxar.

... .. Petitioners

Versus

1. State Of Bihar
2. Asha Devi W/o Saroj Kumar Yadav D/o Uma Shankar Yadav Resident of Village- Nadan Dehra P.O. + P.S.- Dumraon, District- Buxar.

... .. Opposite Parties

Appearance :

For the Petitioners	:	Mr. Mohit Shrivastava, Advocate Mr. Abhishek Kumar, Advocate
For the State	:	Mr. Upendra Kumar, APP

CORAM: HONOURABLE MR. JUSTICE JITENDRA KUMAR
ORAL ORDER

19 29-11-2024 The present petition under Section 482 Cr.PC has been preferred for setting aside the impugned order dated 20.06.2015 passed by Ld. Sub Divisional Judicial Magistrate, Buxar in Criminal Complaint Case No. 607 (c) of 2011, whereby Ld. S.D.J.M has rejected the application of the Petitioners for their discharge.

2. As per the allegation, the marriage of the Complainant was solemnized with Saroj Kumar Yadav in the year 2004 as per Hindu rites and customs. Thereafter, the



accused persons including the Petitioners subjected the Informant/Wife to cruelty on account of non fulfillment of demand of dowry.

3. Heard Ld. counsel for the petitioners and Ld. APP for the State.

4. Despite service of notice, nobody has appeared on behalf of the Opposite Party No.2 to make submissions.

5. Ld. counsel for the petitioners submits that the petitioners are other than husband of the Complainant. The Petitioner Nos.1, 2 and 3 are father-in-law, mother-in-law and brother-in-law respectively. He also submits that the Petitioners have falsely been implicated in this case on account of non-working of the marriage between the informant and her husband/Saroj Yadav. The Complaint has been filed with an ill intent to harass the whole family. He further submits that there is no specific allegation against the Petitioners with reference to date, place and nature of the cruelty. He also submits that learned Magistrate has mechanically dismissed their application for discharge. He further submits that the Informant is separate in mess and business from the Petitioners and the petitioners have nothing to do with the personal life of the Complainant and her husband.



6. However Ld. A.P.P. for the State defends the impugned order and submits that there is sufficient material on record to frame charge against the Petitioners under Section 498A of the Indian Penal Code and Section 3 and 4 of the Dowry Prohibition Act. Hence, there is no illegality or infirmity in the impugned order.

7. I perused the material on record and gave thoughtful consideration to the submissions advanced by both the parties.

8. From perusal of the written report and the Statement made by the Complainant and the witnesses in the inquiry under Section 200 Cr.PC, I do not find any specific allegation against the Petitioners with date and place of the commission of the alleged offence. The Petitioners seem to have been roped in by the Complainant on account of non-working of the marriage with her husband with intent to harass the whole family.

9. It has been consistently held by Hon'ble Supreme Court that tendency has developed to falsely implicate relatives of the husband in matrimonial dispute by way of general and omnibus allegation and if, such tendency is left unchecked, it could result in misuse of the process of the law. (refer to



Kahkashan Kausar @ Sonam & Ors. Vs. State of Bihar & Ors. (2022) 6 SCC 599).

10. In Pepsi Foods Limited & Anr. v. Special Judicial Magistrate & Ors., [(1998) 5 SCC 749], Hon'ble Supreme Court has held that initiation of Criminal Proceeding against a person is serious matter and criminal law cannot be set into motion as a matter of course.

11. In the celebrated judgment of State of Haryana vs Bhajan Lal [1992 Suppl (1) SCC 335], Hon'ble Supreme Court has held, amongst other things, where a criminal proceeding is manifestly attended with mala fide and/or where the proceeding is maliciously instituted with an ulterior motive for wreaking vengeance on the accused and with a view to spite him due to private and personal grudge, the inherent power under Section 482 Cr.PC may be invoked by the Court to prevent the abuse of the process of Court and secure the ends of justice.

12. Hence, the impugned order is not sustainable in the eye of law. It is liable to be quashed and set aside under Section 482 Cr.PC to prevent abuse of the process of Court and to secure the ends of justice.

13. Accordingly, the petition is allowed quashing and setting aside the impugned order dated 20.06.2015 passed by Ld. Sub Divisional Judicial Magistrate, Buxar in connection with



Criminal Complaint Case No. 607 (c) of 2011.

(Jitendra Kumar, J.)

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