

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.55528 of 2019

Arising Out of PS. Case No.-98 Year-2018 Thana- NAWADAH COMPLAINT CASE
District- Nawada

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1. Surya Dev Paswan Son Of Late Ram Jatan Paswan Resident Of Village - Tira, P.S.- Hulasganj, Dist.- Jehanabad At Present Residing At Gaya Chowk, Near Bajrangbali Mandir At The House Of Ajay Singh, Islampur, P.S.- Islampur, Dist.- Nalanda.
 2. Tara Devi W/O Surya Dev Paswan Resident Of Village - Tira, P.S.- Hulasganj, Dist.- Jehanabad At Present Residing At Gaya Chowk, Near Bajrangbali Mandir At The House Of Ajay Singh, Islampur, P.S.- Islampur, Dist.- Nalanda.

... .. Petitioner/s

Versus

1. The State Of Bihar
2. Soni Kumari Wife Of Nirala Paswan, D/O Naresh Paswan At Present Resident Of Village Kutubchak, P.S.- Kauwakole, Dist.- Nawada.

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. Anil Kumar Singh, Adv. Kundan Kumar Ojha, Adv.
For the Opposite Party/s	:	Mr. Umanath Mishra

CORAM: HONOURABLE MR. JUSTICE SUNIL KUMAR PANWAR
ORAL JUDGMENT

Date : 31-07-2024

Heard learned counsel for the petitioners, learned counsel for Opposite Party NO. 2 as well as A.P.P. for the State.

2. The present application has been preferred for quashing the order dated 14th of September, 2018 passed in complaint case No. 98 of 2018, passed by learned S.D.J.M.,



Nawada, whereby, cognizance for the offence punishable under Sections 498(A) of Indian Penal Code and Section 3/4 of Dowry prohibition Act have been taken against the petitioners and co-accused Nirala Paswan (Husband of the complainant).

3. The case of complainant, namely, Soni Kumari, in brief is that her marriage was solemnized with co-accused Nirala paswan at Shiv Mandir on 4th of May, 2013. At the time of her marriage, her father gave Rs. 4,55,000/- (four lakh fifty five thousand rupees) cash, jewelry and other articles as per his capacity. It is further alleged that after *Bidai* the complainant came to her *sasural* and after 10-15 days, petitioners along with other accused persons started demanding further dowry. After one month, she returned her *naihar*. It is further alleged that her in-laws were not ready to call her back and when her father came to the house of petitioners, they demanded Rs. 1,00,000/- (one lakh rupees), a motorcycle and gold ring as dowry upon which he gave Rs. 50,000/-, gold ring and motorcycle. It is further alleged that still her in-laws used to assault and torture her.



On 11.04.2017, when the complainant was taking meal, all the accused persons assaulted her due to which she fell down. Her husband set her on fire due to which her clothes started burning. On *Hulla*, neighbor came and anyhow manage to save her life. It is further alleged that accused persons snatched her jewelry and other articles and ousted her from her matrimonial house.

4. Learned counsel appearing on behalf of the petitioners submitted that petitioner No. 1 is father-in-law and petitioner No. 2 is mother-in-law of the complainant and both are suffering from old age ailments. It is further submitted that marriage of petitioners' son and complainant was performed forcibly at temple. At the time of marriage, couple were under-age. After their marriage, a Panchayati took place between both the parties and they came to conclusion that education of couple will be continued. After completion of their education, *Durgaman* of complainant was performed in the year 2015. Husband of the complainant (petitioner's son) is working as an Assistant in Bandhan Bank and he is always ready to keep his wife with full dignity and



honour but the complainant does not want to reside with him rather she wants to reside at her Naihar. The dispute, if any, between husband and wife (complainant), the petitioners are not at all concerned with their affairs. 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 parents of the husband have been unnecessarily dragged in this case.

5. 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.

6. 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.

7. 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.

8. 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.



9. 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.



10. 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 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 complainant and her husband. The ample responsibility to keep his wife with full dignity and honor is upon husband.

11. Accordingly, this Cr. Misc. Application is allowed and the cognizance order dated 14.09.2018 passed by Sub Divisional Judicial Magistrate, Nawada in complaint case No. 98 of 2018 is hereby quashed and set aside with regard to present petitioners.

(Sunil Kumar Panwar, J)

Nirajkrs/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	02.08.2024
Transmission Date	02.08.2024

