

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.74286 of 2019

Arising Out of PS. Case No.-607 Year-2017 Thana- MUZFFARPUR COMPLAINT CASE
District- Muzaffarpur

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1. Anju Devi @ Manju Thakur Wife Of Late Arun Kumar Thakur Resident Of Village-Basna, P.S-Basopatti, District-Madhubani.
 2. Saurabh Kumar Thakur @ Saurabh Kumar Son Of Late Arun Kumar Thakur Resident Of Village-Basna, P.S-Basopatti, District-Madhubani.

... .. Petitioner/s

Versus

1. The State of Bihar
2. Priya Priyambada Wife of Sri Subhash Kumar Daughter of Lalan Kumar Resident of Village-Kalna, P.S.-Basopatti, District-Madhubani at present resident of Kapurbag Bela Chowk, P.S.-Mithanpura, District-Muzaffarpur.

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Ranjan Kumar Sinha, Adv.
Mr. Ashok Kumar Verma, Adv.

For the Opposite Party/s : Mr. Abhay Kumar

CORAM: HONOURABLE MR. JUSTICE SUNIL KUMAR PANWAR
ORAL JUDGMENT

Date : 11-07-2024

The present application has been preferred for quashing the order dated 11th of October, 2017 passed in complaint case No. 607 of 2017, passed by learned Sub Divisional Judicial Magistrate, East, Muzaffarpur whereby cognizance has been taken against the petitioners as well as Subhash Kumar (husband of O.P. 2), for the offence punishable under Section 498(A) of Indian Penal Code and Section 4 of Dowry Prohibition Act.



2. The prosecution case, in nutshell, is that marriage of the complainant, namely, Priya Priyambada was solemnized with one Subhash Kumar on 3rd of July, 2014. At the time of marriage, parents of the complainant gave Rs. 15,00,000/- (fifteen lakhs rupees), six pieces of rings, chain, furniture and other articles as dowry as per their capacity. It is further alleged that accused persons started demanding one car as a dowry to which the father of complainant expressed his inability to fulfill the same due to his financial condition. After the marriage, when the complainant went to her matrimonial house, all the complaint name accused persons, including the petitioners, started torturing her for the sake of demand of dowry. It is further alleged that they compelled the complainant to commit suicide but with the interference of neighbors, her life could be saved. Thereafter, upon receiving the information, father of the complainant along with some relatives came there and on advice, the husband of the complainant accompanied her to Barodara, Gujarat. Thereafter, husband of the complainant took her to Delhi



where they started leading a happy conjugal life. It is further alleged that after sometime, the petitioners started provoking the husband upon the complainant upon which her husband started torturing her and committing immoral activity with the complainant. It is further alleged that after a passage of time, her husband developed illicit relationship with other girl and when the complainant protested, her husband told that he loved the said girl and his marriage was solemnized without his consent. When she raised objection, on provocation of the petitioners, her husband assaulted the complainant, snatched all her articles and ousted her from the house by saying that without fulfillment of the said demand of four wheeler, he will not keep her. It is further alleged that the complainant made all her effort to live with her husband but all went in vain, then the present complainant.

3. Learned counsel appearing on behalf of the petitioners has submitted that all the petitioners are in-laws of the complainant/opposite party No. 2. Petitioner No. 1 is mother-in-law, whereas, petitioner No. 2 is



brother-in-law of the complainant. Petitioner No. 1 is widow ailing lady and she resides with her younger son (petitioner No. 2) at Kerala right before the marriage of the complainant, where he was working as Assistant Provident Fund Commissioner. They have no concern with the mess and business of O.P. No. 2 and her husband. They live separately from them. The petitioner No. 2 only attended the marriage of his brother (husband of the complainant) and soon thereafter, he returned at his place of service on 06.07.2024. It is further submitted that after her marriage, complainant went to her sasural at Madhubani but during the said living period, her behavior was not good towards her in-laws as well as her husband. She fails to appreciate the sentiments of her husband and after staying about one month she returned at her maika as per her wish with her brother and there after she never returned at her sasural. Petitioners made several attempts to pacify the complainant to live with her husband to lead happy conjugal life but failed due to adamant attitude of the complainant. It is further submitted that O.P. No. 2



has also filed a maintenance case bearing No. 128 of 2017 before the Family Court, Muzaffarpur in which maintenance of Rs. 8,000/- per month was allowed in her favour. The husband of the complainant has also filed a matrimonial case before family Court, Muzaffarpur u/s 9 of the Hindu Marriage Act for decree of restitution of conjugal rights and he is ready to keep the O.P. No. 2. 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 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 11.10.2017 passed by Sub Divisional Judicial Magistrate, East, Muzaffarpur in complaint case No. 607 of 2017 is hereby quashed and set aside with regard to present petitioners.

(Sunil Kumar Panwar, J)

Nirajkrs/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	15.07.2024
Transmission Date	15.07.2024

