

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL REVISION No.1425 of 2019

Arising Out of PS. Case No.-55 Year-2018 Thana- MADHUBANI COMPLAINT CASE
District- Madhubani

=====

Bhogendra Jha, Son of Late Madhav Jha Resident of Village-Sonai, P.S.-Harlakhi, District-Madhubani.

... .. Petitioner/s

Versus

1. The State of Bihar
2. Subhash Chandra Mishra Son of Awadhesh Mishra Resident of Village-Piproun, P.S.-Harlakhi, District-Madhubani.
3. Meera Devi Wife of Subhash Chandra Mishra Resident of Village-Piproun, P.S.-Harlakhi, District-Madhubani.
4. Vinoda Nand Mishra Son of Subhash Chandra Mishra Resident of Village-Piproun, P.S.-Harlakhi, District-Madhubani.
5. Archana Mishra @ Soni Daughter of Subhash Chandra Mishra Resident of Village-Piproun, P.S.-Harlakhi, District-Madhubani.

... .. Respondent/s

=====

Appearance :

For the Petitioner/s : Mr.Birendra Kumar, Advocate
For the Respondent/s : Mr.Ajay Kumar Jha, APP

=====

CORAM: HONOURABLE MR. JUSTICE BIBEK CHAUDHURI
ORAL ORDER

4 04-03-2024 1. The petitioner is the complainant of C.R. Case No. 55 of 2018, pending before the learned Additional Chief Judicial Magistrate, Benipatti, while the Opposite Party Nos. 2 to 5 were arraigned as accused persons in the petition of complaint by the petitioner.

2. In the petition of complaint, it is alleged by the petitioner that marriage of his daughter Neha Mishra was solemnized with one Koushit Nand Mishra on 20.04.2015 according to Hindu Rites and Ceremonies. After marriage, she



went to her matrimonial home. It is also alleged by the complainant that at the time of marriage, he spent huge amount because it was told to him that groom was posted as P.O. in the bank at Delhi and he used to earn Rs. 90,000/- per month, but after marriage, the complainant came to know that the groom used to work as a Clerk in a Bank. It is also stated by the complainant that after marriage, her daughter went to Delhi with her husband and started living there together. However, at her matrimonial home, all the accused persons started demanding Rs. 8 lakhs and a plot in Delhi, and for that, the accused persons started torturing her, both physically and mentally. The complainant came to know about all such incidents and tried to pacify the matter, but the accused persons severely tortured her and on 5th of November, 2017, they drove her away from the residence of her husband after snatching all her belongings. The daughter of the complainant filed a case under the Protection of Women from Domestic Violence Act in the Court of the learned Metropolitan Magistrate at Delhi. On 6th of February, 2018, his daughter came to his house and since then she has been residing with him. The accused person used to abuse her over her mobile phone, even the husband of the daughter of the petitioner once came to the house of the petitioner and severely assaulted his



wife.

3. The learned Magistrate took cognizance of offence and examined the complainant and other witnesses on solemn affirmation under Section 200 of the Cr.P.C. and issued process against the husband of the daughter of the complainant. The Magistrate was of the opinion that the complainant was not able to make out a case against other accused persons.

4. Therefore, the petitioner has filed the instant writ petition for a direction upon the Trial Court to issue process also against other accused persons, being Opposite Party Nos. 2 to 5.

5. The learned Advocate for the petitioner submits that the complainant and other witnesses clearly stated in their initial statement that all the accused persons used to torture her on demand of dowry. However, it is not clear that when the daughter of the complainant and her husband used to stay in Delhi, the incidents of physical and mental torture took place on demand of dowry. There is no specific evidence to the effect that the matrimonial relations used to visit Delhi from Bihar very often and they also took part in treating the daughter of the complainant with cruelty.

6. The learned Advocate for the petitioner refers to a decision of the Hon'ble Supreme Court in the case of



Taramani Parakh v. State of M.P. & Ors., reported in ***(2015) 11 SCC 260*** and submits that the facts and circumstances of the instant case is not similar to Gita Malhotra case because the facts of the case is clearly distinguishable. Since the complainant made initial statement against all the accused persons, the learned Magistrate should issue process against the Private Opposite Party Nos. 2 to 5.

7. It is needless to say that it is open for the Court to take cognizance upon a complaint filed in Court under Section 190(1)(c) of the Cr.P.C. After taking cognizance, the complainant and his witnesses are called upon to adduce evidence.

8. At this stage, the Court should apply the test as to whether the uncontroverted allegations, as made from the record of the case and the documents submitted therewith *prima facie* established the offence or not. If the allegations are so patently absurd and inherently improbable that no prudent person can ever reach such a conclusion, and where the basic ingredients of a criminal offence are satisfied, then the Court may not issue process against the persons against whom complaint has been lodged by the complainant.

9. In the instant case, on perusal of the initial



statement, I do not find any material of offence under Section 498A IPC against the Private Opposite Parties. Therefore, the Trial Court did not commit any error in refusing the issuance of process against the Private Opposite Party Nos. 2 to 5.

10. Thus, I do not find any merit in the instant writ petition.

Accordingly, the instant writ petition is dismissed.

(Bibek Chaudhuri, J)

uttam/skm/-

U			
---	--	--	--

