

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.2500 of 2019

Arising Out of PS. Case No.-181 Year-2016 Thana- ROHTAS COMPLAINT CASE District-
Rohtas

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1. WAKIL MIYA @ MD. WOKIL, son of Azimu Miya
 2. Rasid Miya @ Md. Rasid Azimu Miya, son of Azimu Miya
 3. Piru Miya @ Piru, Son of Late Ranif Miya
 4. Marchho Bibi @ Maracho @ Maracho Piru Wife of Piru Miya
 5. Azimu Miya @ Ajimuddin Son of Late Ranif Miya, All are resident of Village – Pawna, P.S. Pawna, District- Bhojpur

... .. Petitioner/s

Versus

1. State Of Bihar
2. Rehana Khatoon Wife of Md. Samsher Miya and D/O Samsher Miya, Resident of Village- Pawna, P.S. Pawna, District- Bhojpur, presently residing at Village- Karanj, P.s. -Dinara, Rohtas

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. Rama Kant Sing, Advocate
For the State	:	Mr. Pawan Kumar Chaurasia, APP

CORAM: HONOURABLE MR. JUSTICE SUNIL KUMAR PANWAR
ORAL JUDGMENT

Date : 18-07-2024

Heard learned counsel on behalf of the petitioners,
learned counsel for the O.P. No.2 and learned APP for the state.

2. The instant application has been preferred by the petitioners for quashing of order dated 20.9.2016, passed by the learned Judicial Magistrate 1st Class, Bikramganj, Rohtas at Sasaram in Complaint Case No. 181 of 2016, by which cognizance of the offence punishable under sections 498(A) of the Indian Penal Code has been taken against the petitioners.



3. The prosecution case has been instituted on the basis of complaint of the complainant (opposite party no.2) alleged therein that she was married to Khurshid Miya. After one year of her marriage, the petitioners along with her husband started torturing, assaulting for dowry as a motorcycle and golden chain. When complainant showed her inability to fulfill their demand, the accused persons brutally assaulted and ousted her from house. On that basis, the complainant lodged a complaint case no. 181 of 2016.

4. Learned counsel appearing on behalf of the petitioners submitted that the petitioners are merely in-laws of the complainant. The allegations of demanding dowry and assaulting to the complainant are general and omnibus as the marriage of complainant was took place before six years of the alleged occurrence. The husband of the complainant has got partitioned from the other family members immediate after his marriage and hence, the petitioners have no concern at all with the family affairs of the complainant. It is also submitted that presently, the complainant is residing with her husband Khurshid Miya at the working place Jam Nagar, Gujrat.

5. In 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 any offence by Magistrate is not called for. Appreciation of evidence also not permissible in exercise of inherent powers. If the allegation 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.

6. 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 clear allegation against the relatives of the husband and vague and omnibus allegation would not be sufficient to compel them to undergo agony of the trial.

7. 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 phenomenal increase in matrimonial disputes in recent years. The institution of marriage is greatly revered in this county. Section 498(A) of 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. The 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.

8. 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 complainant (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.



9. Accordingly, this application is allowed and the cognizance order dated 20.9.2016, passed by learned Judicial Magistrate 1st Class, Bikramganj, Rohtas at Sasaram in connection with complaint Case No. 181 of 2016, is hereby, quashed and set aside with regard to these petitioners.

(Sunil Kumar Panwar, J)

Amandeep/-

AFR/NAFR	NAFR
CAV DATE	N/A
Uploading Date	.20.7.2024
Transmission Date	20.7.2024.

