

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.40992 of 2017

Arising Out of PS. Case No.-1391 Year-2014 Thana- NALANDA COMPLAINT CASE
District- Nalanda

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1. Dinesh Prasad, Son of Kashi Lal,
 2. Pushplata Devi, W/o Dinesh Prasad,
 3. Vishal Kumar, Son of Dinesh Prasad,
 4. Mira Devi W/o Vishal Kumar, All are R/o Mohalla- Bichali Khandakpar (Poolpar), Near Canara Bank, P.S.- Town Biharsharif, District- Nalanda, at Biharsharif.

... .. Petitioner/s

Versus

1. State of Bihar
2. Sweta Rani, W/o Vikash Kumar, R/o Mohalla- Bichli Khandakpar, P.S.- Town Biharsharif, District- Nalanda at Biharsharif, D/o Binod Kumar Anand, R/o Mohalla- Bichli Uran, Town, P.S.- Sohsarai, District- Nalanda at Biharsharif.

... .. Opposite Party/s

with

CRIMINAL MISCELLANEOUS No. 42240 of 2017

Arising Out of PS. Case No.-1391 Year-2014 Thana- NALANDA COMPLAINT CASE
District- Nalanda

Vikash Kumar S/o Dinesh Prasad, R/o Mohalla- Bichali Khandakpar Poolpar, Near Canara Bank, P.S.- Town Biharsharif, District- Nalanda at Biharsharif.

... .. Petitioner/s

Versus

1. State of Bihar
2. Sweta Rani, Wife of Vikash Kumar, R/o Mohalla- Bichali Khandakpar Town, P.S.- Town Biharsharif, District- Nalanda.

... .. Opposite Party/s

Appearance :

(In CRIMINAL MISCELLANEOUS No. 40992 of 2017)

For the Petitioner/s : Mr. Nawal Kishore Singh, Advocate

For the State : Mr. Suresh Prasad Singh, APP

For the O.P. No.2 : Mr. Rajendra Narayan, Sr. Advocate

(In CRIMINAL MISCELLANEOUS No. 42240 of 2017)

For the Petitioner/s : Mr. Nawal Kishore Singh, Advocate

For the State : Mr. Suresh Prasad Singh, APP

For the O.P. No.2 : Mr. Rajendra Narayan, Sr. Advocate

CORAM: HONOURABLE MR. JUSTICE SHAILENDRA SINGH
ORAL ORDER

5 25-02-2025 As the petitioners of both the petitions have



challenged the same order dated 21.01.2016, as such these petitions are being decided together by a common order.

2. The instant petitions have been filed under Section 482 of the Code of Criminal Procedure (in short 'Cr.P.C.') with a prayer to quash the order dated 21.01.2016 passed by the learned Chief Judicial Magistrate, Nalanda at Biharsharif in Complaint Case No. 1391C of 2014 whereby and whereunder the learned Magistrate has taken cognizance of the offence under Section 498A of the Indian Penal Code (in short 'IPC') against the petitioners.

3. The main grounds taken by the petitioners' counsel to assail the order impugned are that against the petitioner, Vikash Kumar, who is the husband of the O.P. No.2 and other petitioners who are in-laws of the said O.P., in the entire complaint, filed by the O.P. No.2, there is no specific allegation regarding the alleged cruelty except against the petitioner No.3, brother-in-law of the husband of O.P. No.2 and regarding the alleged *marpit*, which is said to have taken place on 29.10.2014, the injury report filed by the complainant before this Court is not reliable as the same has been fabricated by the complainant (O.P. No.2) in collusion with the concerned doctor. The said medical report is contradictory to the alleged miscarriage to the



complainant on account of the alleged assault and regarding the other alleged physical tortures, including causing electrocution to the complainant by the petitioner Vishal Kumar there is no any medical evidence, in fact, the complainant (O.P. No.2) did not like her husband as well as her in-laws and never wanted to lead a normal life as a wife with her husband and in-laws. Before the filing of the complaint, an informatory petition had been filed by her husband showing the petitioners' apprehension of being implicated in a false case by the complainant. It has been submitted by petitioners' counsel that the petitioner no.1, Dinesh Prasad, is the father-in-law, petitioner no.2, Pushpalata Devi, is the mother-in-law, petitioner no. 3 is brother-in-law and petitioner no.4 is sister-in-law (*gotni*) of the complainant and on account of the behavior of the complainant, her husband went into depression and became victim of a road accident, for which he was treated at several hospitals and the complainant initially filed a complaint before the S.H.O of Mahila Police Station, Nalanda where an inquiry was conducted by an Assistant Sub-Inspector, a copy of which as Annexure-1 has been filed with these petitions and the same goes to show that the O.P. No.2 (complainant) was not ready to lead a conjugal life with her husband and she put eleven points (demands) in the demand



paper before the said ASI as condition for her living in the company of her husband and in-laws and the copy of said demand paper has been filed with these petitions as Annexure-4. It is further submitted that husband of O.P. No.2 has filed a Matrimonial Case No. 296 of 2014 in the Family Court, Nalanda under Section 9 of the Hindu Marriage Act but even then the O.P. No. 2 does not want to live with her husband as she is a smart lady working in the ICICI Bank having several boyfriends. It is lastly submitted that the trial court's attitude is also not proper as all the petitioners have been granted the relief of provisional bail several months before by the trial court itself and thereafter, the petitioners have made several attempts before the trial court to get confirm their provisional bail but no attention is being paid and till date no order has been passed on their prayer.

4. On the other hand, Mr. Rajendra Narayan, learned senior counsel appearing for the O.P. No.2, has vehemently opposed both the petitions and argued that in the complaint petition there is specific allegation of physical torture against the petitioners and in connection with the alleged occurrence relating to severe *marpit* and cruelty committed on 29.10.2014, the complainant had to be admitted in Sadar Hospital,



Biharsharif where she underwent medical treatment and in that occurrence, she sustained grievous injuries and also suffered miscarriage and in this regard, the injury report issued by the concerned government hospital and other relevant medical prescriptions showing her treatment have been filed with the counter affidavit. It is further submitted that the attitude of the petitioners has not remained co-operative before the trial court and on the pretext of false reasons they attempted to get their case transferred from one court to another and in this regard, their transfer petitions were rejected by the Sessions Judge twice. It is wrong to state that the O.P. No.2 is working in ICICI Bank and upon the so-called demand paper containing the eleven demands of the complainant, there is no signature of the complainant or her parental relatives, or any other person, so, the petitioners' defence based on this demand paper is completely unreliable. It is lastly submitted that the petitioners have challenged the cognizance order but thereafter, the trial court has proceeded ahead and recorded the evidence of all the witnesses before charge and in the present time, the case is pending for framing of the charges upon the petitioners.

5. Heard both the sides and perused the order impugned and relevant materials. Though the petitioners of Cr.



Misc. No. 40992 of 2017 are in-laws of the complainant but against them as well as the petitioner, Vikash Kumar, there is specific allegation of physical torture and in this regard, paragraph '9' of the complaint is relevant, in which it has been alleged that on 29.10.2014, the petitioner, Vishal Kumar, assaulted the complainant by fists and kicks and when the parents of the complainant arrived after getting information of that assault then all the petitioners locked up the complainant and her daughter then with the help of police, the complainant's parents brought the complainant to their house and admitted her at Sadar Hospital, Biharsharif in this regard, the injury report filed by the O. P. No.2 with counter affidavit is relevant which shows that several grievous injuries were found on her body on 29.10.2014. Further, during the inquiry the material witnesses supported the allegations levelled against the petitioners.

6. Considering the materials available against the petitioners, particularly, the alleged physical assault committed by the petitioners with the complainant on 29.10.2014 which gets corroboration from the medical evidence, this Court finds no illegality in the order impugned and there is no force and merit in both the petitions, accordingly, both stand dismissed.

7. The petitioners will have a right to press their



admissible materials relating to the grounds taken by them in the present petitions before the trial court at the time of framing of charge or later during the course of trial.

8. The trial court is directed to expedite the trial of the petitioners.

(Shailendra Singh, J)

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