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Court : Patna

Decided On : Apr-20-2006

Judge : Navin Sinha, J.

Acts : Indian Penal Code (IPC) - Sections 323, 379 and 498A; Dowry Prohibition Act - Sections 3 and 4

Appeal No. : Cr. Misc. No. 29984 of 2003

Appellant : Sunil Kumar Singyh and anr.

Respondent : The State of Bihar and anr.

Disposition : Application allowed

Judgement :

Navin Sinha, J.

1. Heard learned Counsel for the petitioners and the learned Counsel for the State. None appears on behalf of the opposite party No. 2 despite service of notice.

2. This application has been filed for quashing the order dated 17.3.2003 as also the entire proceedings in Complaint. Case No 307 of 2003 under Sections 498A, 323, 379 of the Penal Code read with Sections 3/4 of the Dowry Prohibition Act passed by the SDJM East Muzaffarpur.

3. The petitioners are stated to be the married sister of the husband of the complainant and her husband. They have been implicated as accused 7 and 6 respectively in the complaint.

4. The allegations are that the complainant was married to accused No. 1 on 10.6.98. She went to her matrimonial home and started residing with her husband. The husband, the mother-in-law, the brother-in-law, his wife and the present petitioners all reside in one house in Khagaul. There are omnibus a legation against the petitioners that they along with other accused allegedly made demands for a Maruti car. The complainant was driven out of her matrimonial home on 9.2.2003. The husband subsequently stated that he will not keep the complainant in the matrimonial home.

5. Learned Counsel for the petitioners submits that the petitioners have been implicated as accused in complete abuse of the process of law merely for the reason that petitioner No. 2 was the married sister of the husband of the complainant. The falsity of the complaint is evident from the fact that while the complainant in her petition states that the petitioners were residing along with other accused in the matrimonial home of the complainant at Khagaul, in her deposition on S/A the complainant, in reply to the query of the court, stated that the petitioners were residing separately at Kankarbagh in Patna. It is submitted that in any event there are no allegation of any harassment. or torture meted out by the present petitioners so as to invoke the provisions of the aforesaid Act against them. The entire allegations are generalised and can at best be narrowed down to accused No. 1. In so far as the present petitioners are concerned, the complaint was based on mis-representation apparent from the inherent contradictions between the statement made in the complainant and the statement on S/A.

6. This Court on considering the submissions made on behalf of the petitioners is satisfied that there is an inherent contradiction in the allegation in the complaint and the statement made on solemn affirmation. Entire genesis of the complaint is that the petitioners were residing under the same roof along with the other accused in the matrimonial home of the complainant and subjecting the complainant, to torture and harassment, It was in this back ground that the

generalised allegation has been made in omnibus manner. Subsequently the complainant herself acknowledges that the petitioners were not residing under the same roof, but they in fact resided separately in another area of the town. This Court can do no better than to refer to the -judgement of the Hon'ble Supreme Court in the judgement reported in : 2005 CriLJ1732 in the case of Ramesh and Ors. v. State of T.N.

7. In the said case also, the petitioner was married sister of the informant's husband living separately as is the case presently. There were no specific allegations against her except that she allegedly made certain remarks, against the complainant and behaved rudely. The Supreme Court took notice of the fact that bald allegations had been made against the sister-in-law which seems to suggest anxiety of the complainant to rope in as may relations of the husband of the complainant. In view of the same, their Lordships arrived at the conclusion that there was no justification to relegate, to the ordeal of a criminal trial The proceedings therefore were quashed.

8. This Court finds no reason to arrive at a different conclusion in the present matter based on the discussions as aforesaid.

9. In the result, this application is allowed. The order of cognizance dated 17.3.2003 and entire proceedings in Complaint Case No. 307 of 2003 pending before the SDJM East Muzaffarpur is hereby quashed but only in so far as the present petitioners be concerned.

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