

**Shailendra Kumar and ors. Vs. State of Bihar and anr.**

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**SooperKanoon Citation :** [sooperkanoon.com/132476](http://sooperkanoon.com/132476)

**Court :** Patna

**Decided On :** Feb-19-2007

**Judge :** Ghanshyam Prasad, J.

**Appellant :** Shailendra Kumar and ors.

**Respondent :** State of Bihar and anr.

**Disposition :** Application allowed

**Judgement :**

**Ghanshyam Prasad, J.**

1. Heard.

2. This application under Section 482, Cr.P.C. has been filed to quash the order of cognizance dated 5.8.2004 passed by S.D.J.M., Masurhi, Patna in Complaint Case No. 65-C of 2004 thereby and thereunder cognizance under Sections 406, 420 and 120B of IPC along with Section 4 of the Dowry Prohibition Act has been taken against the petitioners.

3. On perusal of the complaint petition as well as submission of the learned Counsel for the petitioners as also the opposite-party No. 2, it appears that the marriage of son of petitioner No. 2 Yogendra Sinha was settled with sister of opposite-party No. 2. However, later on, the negotiation broke down due to some

differences as a result the opposite-party No. 2 filed a complaint petition against all the family members of the petitioner No. 2 including his son.

4. It appears from the allegation levelled in the complaint petition that in course of marriage negotiation some cash and other articles were paid by the opposite-party No. 2 to the petitioner No. 2. The purpose of filing of the complaint petition appears to be for return of the expenditure incurred in course of the negotiation of the marriage.

5. It appears from Annexures 3 and 3/A that the petitioners moved the Hon'ble Court for grant of anticipatory bail. Both the parties were heard and it was agreed upon by the petitioner No. 2 to return all the money of Rs. 50,000 paid in course of the negotiation of the marriage as well as the golden ring worth Rs. 4500. Annexure-4 would go to show that the entire money of Rs. 50,000 as also the ring was returned to the opposite-party No. 2 in the Court of S.D.J.M., Masurhi, Patna on 7.2.2005.

It is submitted by the learned Counsel for the petitioners that the petitioner No. 2 had also filed criminal case against the opposite-party No. 2 and others which was quashed vide order dated 20.9.2006 passed in Cr. Misc. No. 15833 of 2005 on the ground that the money has already been returned. The matter has already been settled.

6. Thus, having regard to the facts and circumstances of the case as well as the fact that the cash as also the ring which was given at the time of negotiation have already been returned to the opposite party No. 2. Therefore not a continuance of the criminal prosecution would amount to misuse of the process of the Court. The purpose of filing of this criminal case is not to secure the conviction but only to get back the money alleged to be paid to the petitioner No. 2. Accordingly, this application is allowed and the impugned order of cognizance is hereby quashed.