

(2013) 05 JH CK 0085
In the Jharkhand High Court
Case No : Criminal Revision No. 98 of 2013

Nasir Mian and Others

APPELLANT

Vs

The State of Jharkhand

RESPONDENT

Date of Decision : 16-05-2013

Acts Referred:

Citation : (2013) 4 JLJR 107

Hon'ble Judges : Harish Chandra Mishra, J

Bench : Single Bench

Advocate : Ranjan Kumar Singh, for the Appellant;

Judgement

Harish Chandra Mishra, J.—Heard learned counsel for the petitioners and the learned counsel for the State. The petitioners are aggrieved by the order dated 17.10.2012 passed by Sri R.N. Rai, learned Judicial Magistrate, 1st Class, Jamtara, in G.R. Case No. 265 of 2010/Narayanpur P.S. Case No. 40 of 2010 whereby, the application filed by the petitioners for discharge u/s 239 of the Cr.P.C. has been dismissed by the Court below.

2. The petitioners have been made accused for the offence u/s 498A of the Indian Penal Code in connection with Narayanpur P.S. Case No. 40 of 2010 corresponding to G.R. case No. 265 of 2010.

3. The petitioners are the father-in-law, mother-in-law and the brother-in-law respectively of the informant and the F.I.R. shows that the marriage had taken place about 14 years ago. However, there is allegation in the F.I.R. that the accused persons named therein started demanding of Rs. 1,00,000/- (one lakh) from the parents of the informant for the purpose of business and she was being subjected to cruelty and torture for non-payment of the same. It is also alleged that she was ousted from the matrimonial house and the father-in-law, husband and brother-in-law of the victim went to the parents' house of the informant where also she was abused by them and assaulted by her husband.

4. After investigation, the Police submitted the charge-sheet, only against the

husband and the petitioner Nos. 1 and 3, who are the father-in-law and brother-in-law of the victim. Final form was submitted in favour of petitioner No. 2, who is mother-in-law of the informant, stating that she was innocent. However, the Court below took cognizance against all the accused persons and, thereafter, the petitioners filed their application for discharge which was also rejected by the Court below.

5. Learned counsel for the petitioners though has submitted that the petitioners have been falsely implicated in this case, but he confines his submissions only with respect to the mother-in-law (petitioner No. 2) in whose favour the Final Form has been submitted by the Police, submitting that there was no material against her for framing the charge and still cognizance has been taken.

6. From the F.I.R. itself, it appears that there are specific allegations against the petitioner Nos. 1 and 3, who are the father-in-law and brother-in-law of the victim. So far as petitioner No. 2, Nooresha Khatoon, who is mother-in-law of the victim, is concerned, she has only been named in the F.I.R. and there is no specific allegation against her and it appears that after investigation the Police did not find any offence against her and after investigation, Final Form has been submitted in the Court below in her favour. The Court below has not discussed any material as regards the petitioner No. 2 Nooresha Khatoon, on the basis of which her application for discharge has been rejected by the Court below and, accordingly, it appears that the impugned order so far it relates the petitioner No. 2 Nooresha Khatoon, is absolutely a non-speaking order.

7. In that view of the matter, the impugned order dated 17.10.2012 so far it relates to petitioner No. 2 Nooresha Khatoon is, hereby, set aside and the Court below is directed to pass the order afresh, in accordance with law after discussing the material against her, if any.

8. This application, so far as it relates to the petitioner Nos. 1 and 3 Nasir Mian & Mukhtar Ansari, respectively, is hereby, dismissed. This application is accordingly, allowed in part.