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DISTRICT- NALANDA
IN THE COURT OF SESSIONS JUDGE, NALANDA, BIHARSHARIF.

CRIMINAL REVISION NO. 199 OF 2022

Present: Hasmuddin Ansari,
Sessions Judge,
Nalanda, Biharsharif.

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15-2-2023

Dated, Biharsharif, the 24th day of January, 2023

Maro Devi, W/o Jagdish Prasad,

R/o Village- Nanand, P.S.- Silao, District- Nalanda.

.....**Petitioner/Revisionist.**

Versus

1. **The State of Bihar,**

2. **Anjali Devi, W/o Manoj Kumar, D/o Arjun Prasad,**

R/o village- Budhaul, P.S. Noorsarai, District- Nalanda.

.....**Opposite parties.**

Counsel for the parties :-

For the petitioner : Mr. Deepak Kumar Rastogi, Advocate,

For the State (O.P. No. 1) : Mr. Amir Prasad Singh, Addl. Public Prosecutor.

For the O.P. No. 2 : Mr. Pramod Sharan Singh, Advocate.

ORDER

1. The present revision petition has been preferred by the revisionist/ petitioner to set aside the impugned order dated 16.09.2022 passed by the court of S.D.J.M., Biharsharif, Nalanda in G.R. Case No. 1569/2017 arising out of Mahila P.S. case No. 77/2017, whereby the petition dated 25.09.2019 filed on behalf of the petitioner under section 239 of the Cr.P.C., has been dismissed. Being aggrieved and dissatisfied with the order, this revision petition has been filed by the petitioner.

2. Heard learned counsel for the petitioner and learned Addl. P.P. for the State as well as learned counsel for the O.P. No. 2.

3. It has been submitted on behalf of the petitioner/revisionist that the impugned order is not sustainable in the eye of law and the learned Magistrate has passed the order in mechanical manner without applying his judicial mind. It has been further submitted that no any witnesses have supported the allegation against the petitioner. The petitioner is not a family member of the husband of the informant and she is not named in the F.I.R. as an accused and there is no allegation has been

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levelled against her. There are so many decisions of the Hon'ble Supreme Court and the Hon'ble High Court that the relatives of the husband are unnecessarily dragged in matrimonial cases and on the basis of omnibus allegation they should not be proceeded in a such type of cases. Hence, there is no material against the petitioner to frame charge. So the impugned order is fit to be set aside.

4. Per contra the learned Addl. P.P. and learned counsel on behalf of the informant (O.P. No. 2 herein) vehemently supported the impugned order submitting that there is no illegality in the order passed by the learned Magistrate dismissing the discharge petition filed by the petitioner because there is sufficient material on record to make the accused to face trial of the alleged offence.

5. Perused the relevant material on record and considered the submission advanced on behalf of both the parties.

6. From perusal of the case record, I find that Mahila P.S. Case No. 77/2017 was registered u/s 498(A), 323, 341, 504/34 of the I.P.C. on the basis of written petition of the informant namely Anjali Kumari, against six accused persons. After completion of investigation, charge sheet bearing No. 91/2017 dated 31.07.2017 was submitted u/s 498(A)/34 of the I.P.C. and u/s 3/4 of the D.P. Act and the learned S.D.J.M., has taken cognizance of offence punishable u/s 498(A)/34 of the I.P.C. and u/s 3/4 of the D.P. Act against the F.I.R. named accused persons including the petitioner.

7. The prosecution case as per the written petition of the informant, namely Anjali Kumari, in brief, is that her father-in-law, nanad, nandosi and neighbours used to assault and torture her. Subsequently, she went to Mahila P.S., where compromise has taken place between them but even after the compromise, her husband did not turn up to take her. Her father-in-law and mother-in-law did not allow her to go to her husband and to talk with him on phone. It has been further alleged that the informant has a son but the accused persons do not care and maintained her and her son and they do not give expenses for their livelihood. At present she lives in her maike.

8. From perusal of the lower court record it appears that after submission of charge-sheet, the learned court below has taken cognizance after finding sufficient material/evidence against the accused persons including the petitioner/revisionist.

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I find that the petitioner is neighbour of the husband of the informant and in course of investigation the witnesses have supported the allegation against the accused persons including the petitioner. From perusal of the impugned order dated 16.09.2022 it appears that the learned court below after going through the evidences adduced on behalf of the prosecution, has dismissed the discharge petition of the petitioner and directed her to remain present for framing of charge.

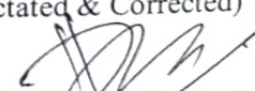
9. Regarding framing of charge, it is a settled position of law that if on the basis of material on record the Court could form an opinion that the accused might have committed offence it can frame the charge, though for conviction the conclusion is required to be proved beyond reasonable doubt that the accused has committed the offence. At the time of framing of the charges the probative value of the material on record cannot be gone into, and the material brought on record by the prosecution has to be accepted as true. Before framing of charge the court must apply its judicial mind on the material placed on record and must be satisfied that the commission of offence by the accused was possible. Whether, in fact, the accused committed the offence, can only be decided in the trial.

10. So far framing of charge in any case only strong suspicion is sufficient and the learned court below has found that there is sufficient evidence for framing charge against the accused persons including the petitioner. So there is no any illegality and jurisdiction error in the impugned order dated 16.09.2022 and the impugned order is appears to be legal, proper and justified.

11. In the result, the Criminal Revision is hereby **dismissed**.

12. Let a copy of this order along with LCR be sent to the concerned lower court for information and needful. The record of this revision proceeding be consigned to the Record Room as per rule.

(Dictated & Corrected)


(Hasmuddin Ansari)
Sessions Judge, Nalanda,
Biharsharif.

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