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IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.37896 of 2014

Arising Out of PS.Case No. -113 Year- 2014 Thana -PARIHAR District- SITAMARHI

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Rajan Choudhary, son of Dinesh Choudhary, resident of Village - Sahargama Tole Dhami Tole , P.S. - Parihar, District - Sitamarhi.

.... Petitioner/s

Versus

The State of Bihar.

.... Opposite Party/s

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Appearance :
For the Petitioner/s : Mr. Ajay Kumar Thakur, Advocate
For the Opposite Party/s : Mr. Ram Sumiran Rai A.P.P.
For the informant : Mr. Ashhar Mustafa, Advocate

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CORAM: HONOURABLE THE CHIEF JUSTICE
ORAL ORDER

2 14-01-2015 The petitioner is being tried for the offences punishable under Sections 341, 323, 354, 354A, 354B, 364, 498A, 504, 506/34 of the Indian Penal Code on the basis of Parihar P.S. Case No.113 of 2014.

The version of the complainant, in brief, was that she was married to the uncle of the petitioner herein, way back in the year 1977, and she was blessed with a child who has grown up and even her husband has died. Her grievance was mostly about the division of the property of the family.There is also an allegation that during his life time her husband married another woman and her whereabouts are not known.

The petitioner was arrested on 03.08.2014. He filed B.P. No.929 of 2014 in the Court of learned Sessions Judge, Sitamarhi. The application was transferred to the Court of

learned 1st Addl. Sessions Judge. The bail application was dismissed on 25.08.2014. Hence, this application under Section 439 of the Code of Criminal Procedure.

Heard Sri Ajay Kumar Thakur, learned counsel for the petitioner, Sri Ram Sumiran Rai, learned A.P.P. for the State, and Sri Ashhar Mustafa, learned counsel for the informant.

It appears that at the instance of some shrewd persons, she filed complaint without even verifying as to whether the case fits under Section 498A of the Indian Penal Code at all, when her grievance is civil in nature. It is not uncommon that the police are under some pressure and they are managed to register cases, though undisputed facts do not make out a case. At least, when it is brought to the notice of the Court of the level of Sessions Judge at the stage of bail application, proper verification ought not to have been done in the limited context. It is rather interesting to note that the learned 1st Additional Sessions Judge proceeded as though the gravity of the case is about the kidnapping of the second wife of the deceased husband of the complainant. There cannot be better instance of gross miscarriage of justice or failure to exercise the judicial power by the learned 1st Additional Sessions Judge. This Court is totally dissatisfied with approach adopted by the learned 1st

Additional Sessions Judge. It is made clear that if any such instance is noticed in future, serious view would be taken and the matter will be dealt with at proper stage.

It is brought to the notice of the court that the dispute between the parties has since been settled. That however is not relevant at this stage.

The application is allowed. The petitioner is directed to be released on bail on furnishing bail bond of Rs.10,000/- (Rupees ten thousand) with two sureties of the like amount each to the satisfaction of learned Chief Judicial Magistrate, Sitamarhi in connection with Parihar P.S. Case No.113 of 2014.

(L. Narasimha Reddy, CJ)

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