

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.32538 of 2015

Arising Out of PS.Case No. -318 Year- 2012 Thana -GORAUL District- VAISHALI(HAJIPUR)

Manish Kumar son of Lalu Paswan, resident of village- Maudah Chatur, P.S.-
Patepur, District- Vaishali.

.... Petitioner/s

Versus

1. The State of Bihar.
2. Pushpa Kumari wife of Manish Kumar, daughter of Dinesh Choudhary, resident of village- Kailakala, P.O.- Solempur Dumaria, P.S.- Goraul (Kathara O.P.), District -Vaishali.

.... Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Rakesh Kumar Soni, Advocate
For the Opposite Party/s : Mr. Rajiv Ranjan Sinha, Advocate
For the State : Mrs. Asha Devi, APP

CORAM: HONOURABLE MR. JUSTICE ASHWANI KUMAR SINGH

ORAL JUDGMENT

Date: 23-02-2016

By way of the present application preferred under section 482 of the Code of Criminal Procedure (for short “CrPC”), the petitioner seeks quashing of the order dated 22.4.2013 passed by the learned Chief Judicial Magistrate, Vaishali at Hajipur in Goraul (Kathara O.P.) P.S. Case No. 318 of 2012 whereby and where under the learned Chief Judicial Magistrate took cognizance of the offences punishable under sections 498A of the Indian Penal Code (for short “IPC”) as also under sections 3 and 4 of the Dowry Prohibition Act, 1961 (for short “D.P.Act) against the petitioner.

2. It would appear from perusal of the FIR as contained in



annexure-1 to the present application that wife of the petitioner initially instituted a complaint in the court of Chief Judicial Magistrate, Vaishali at Hajipur which was referred to the police under section 156(3) of the CrPC for investigation pursuant to which an FIR was instituted under sections 341, 323, 504 and 498A read with 34 of the IPC as also under sections 3 and 4 of the D.P.Act. The police investigated the case and found the allegations of demand of dowry and subjecting the complainant to cruelty for non-fulfillment of the same against the petitioner to be true and, accordingly, a report under section 173(2) of the CrPC was filed in the court vide charge-sheet no.68 of 2013 dated 17.3.2013. It would further appear from the record that after going through the allegations made in the FIR, materials collected during investigation and the report submitted under section 173(2) of the CrPC, the learned Chief Judicial Magistrate, Vaishali at Hajipur found a *prima facie* case to be made out against the petitioner under section 498A read with 34 of the IPC as also under sections 3 and 4 of the D.P.Act.

3. It has been contended by the learned counsel for the petitioner that the allegations made in the FIR are not true and the complaint leading to institution of FIR has been filed just in order to humiliate and harass the petitioner. He has further contended that while passing the impugned order the Chief Judicial Magistrate has

not applied his mind to the facts of the case and cognizance of the offences has been taken mechanically.

4. On the other hand, learned counsel for the opposite party no.2 has contended that the allegations made in the FIR do attract the ingredients of the offences punishable under sections 498A of the IPC as also under sections 3 and 4 of the D.P.Act. The allegations made therein were duly corroborated by the witnesses examined under section 161(3) of the CrPC by the police during investigation. The investigating officer and the supervising officer of the case have also found the allegations made against the petitioner to be true. He submits that the order impugned does not suffer either from any illegality or from any irregularity.

5. I have heard respective counsel for the parties and perused the materials available on the record.

6. I find substance in the arguments advanced by the learned counsel for the opposite party no.2. The allegations made in the FIR do attract ingredients of the offences punishable under section 498A of the IPC as also sections 3 and 4 of the D.P. Act. The witnesses examined during investigation have also supported the allegations made in the FIR. Accordingly, the police sent up the petitioner for trial while submitting their report under section 173 (2) CrPC. On perusal of the allegations made in the FIR, the material

collected during investigation and the report submitted under section 173 (2) CrPC, the learned Magistrate found *prima facie* material against the petitioner to summon for prosecution under section 498A IPC and 3 and 4 of the D.P. Act. I find no illegality in the order dated 22.4.2013 passed by the learned Chief Judicial Magistrate, Vaishali at Hajipur.

7. In that view of the matter, I do not find any merit in the present application. Accordingly, it is dismissed.

(Ashwani Kumar Singh, J)

Md.S./-

U		T	
---	--	---	--