

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.37922 of 2015

Arising Out of PS.Case No. -1173 Year- 2012 Thana -WEST CHAMPARAN COMPLAINT
District- WESTCHAMPARAN(BETTIAH)

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Sujit Benzamine son of Late Benzamine Jacob, resident of village - Chuhari, P.S.-
Chanpatia, District - West Champaran

.... Petitioner/s

Versus

1. The State of Bihar
2. Mary Frida daughter of Late Arun Fiadailish wife of Sujit Benzamine, resident
of Mohalla - Raj Compound Naraunapur, P.S.- Ramnagar, District - West
Champaran

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Vijay Kumar No.1, Advocate
For the State : Mr. Jharkhandi Upadhyay, APP

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CORAM: HONOURABLE MR. JUSTICE ASHWANI KUMAR SINGH

ORAL JUDGMENT

Date: 04-03-2016

By way of the present application preferred under section 482 of the Code of Criminal Procedure, the petitioner seeks quashing of the order dated 15.5.2014 passed by the learned Sub Divisional Judicial Magistrate, Bagaha, West Champaran in connection with Trial No.5203 of 2014/1110 of 2015 arising out of Complaint Case No.C-1173 of 2012 whereby the petitioner has been summoned to face trial for the offence punishable under section 498A of the Indian Penal Code (for short "the IPC").

2. It is contended that the allegations made in the complaint are absolutely false and in respect of other co-accused persons a Bench of this Court vide order dated 2.7.2015 passed in Cr. Misc.

No.45951 of 2014 has quashed the summoning order. It is further contended that the complainant has also filed a matrimonial suit seeking decree of divorce in the court of Principal Judge, Family Court, Bettiah, West Champaran. In that view of the matter the summoning order against the petitioner is nothing, but an abuse of process of the court.

3. I have heard learned counsel for the petitioner, learned counsel for the State and perused the complaint petition as contained in annexure-1 to the present application.

4. In the complaint petition it is specifically alleged against the petitioner that he used to demand rupees two lakh as dowry from the complainant and on failure to fulfill the demand, she was subjected to cruelty in various ways. It is alleged that the petitioner had poured *Kerosene* oil on the body of the complainant and tried to set her ablaze.

5. These allegations certainly attract the ingredients of the offence punishable under section 498A of the IPC. The submission of the learned counsel for the petitioner that in respect of in-laws a Bench of this Court has quashed the summoning order is of no help to the petitioner as while quashing the summoning order of the in-laws, the Court has observed that if at all the complainant is aggrieved, it is the action of her husband, who was unemployed and got married on

the basis of forged documents and it is he who should be prosecuted for his acts and not the other family members. It would be evident from the aforesaid order dated 2.7.2015 that the summoning order so far as the other accused persons are concerned was quashed because there was general and omnibus allegation against them. However, as against the petitioner, this Court would find that there are serious allegations made in the complaint against him. The next contention that the complainant has sought for a decree of divorce by filing matrimonial suit in the court of Principal Judge, Family Court, cannot be treated to be a ground for quashing the summoning order in a case in which the jurisdictional Magistrate has taken cognizance for the offence punishable under section 498A of the IPC. In case the wife is being subjected to cruelty by the husband in her matrimonial home, she has all the rights to seek a decree of divorce.

6. In view of the discussions made, hereinabove, I do not find any merit in the application. It is, accordingly, dismissed.

(Ashwani Kumar Singh, J)

Md.S./-

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