

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No. 29074 of 2013

Arising Out of PS.Case No. -276 Year- 2007 Thana -KADAMKUAN District- PATNA

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Rabindra Nath Jha S/O Late Jagdish Jha Resident of Dr. B. Bhattacharya
Road, West Patel Nagar, P.O. + P.S. - Shastri Nagar, Patna-23.

.... Petitioner

Versus

1. The State of Bihar
2. Anupam Jha W/O Rabindra Nath Jha, D/O Ram Prabodh Jha At Present
Residing At Village- Rarhi, P.O.- Rarhi, Vaya- Ratanpur, P.S.- Jale,
District- Darbhanga.

.... Opposite Parties

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Appearance :

For the Petitioner/s : Mr. Tuhin Shankar
For the Opposite Party/s : Mrs. Rina Sinha(App)
Smt. Shilpi Keshri

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CORAM: HONOURABLE MR. JUSTICE RAKESH KUMAR
ORAL ORDER

4. 02-05-2016 Heard Sri Tuhin Shankar, learned counsel for the
petitioner, learned Addl. Public Prosecutor as well as Smt. Shilpi
Keshri, learned counsel who has appeared on behalf of
complainant/opposite party no. 2.

At the very outset, it was submitted by learned
counsel for opposite party no. 2 that after receipt of notice, the
complainant/opposite party no. 2 tried to settle the dispute
outside the court, but it appears that petitioner is not at all ready
to keep the complainant as his wife. This submission was also
accepted by Sri Tuhin Shankar, learned counsel for the
petitioner. He submits that after such a long time, it would be

difficult for the petitioner to reside with opposite party no. 2.

The petitioner, invoking inherent jurisdiction of this court under Section 482 of the Code of Criminal Procedure, has prayed for quashing of an order dated 03-06-2010 passed by Smt. Rachna Srivastava, learned Judicial Magistrate 1st Class, Patna, by which, petitioner's application for discharge was rejected. The petitioner has further prayed for quashing of an order dated 21-05-2013 passed in Cr. Revision No. 767 of 2010 by learned Addl. Sessions Judge - X, Patna. The learned Addl. Sessions Judge by its order dated 21-05-2013 has rejected the criminal revision preferred by the petitioner against the order dated 03-06-2010 rejecting the prayer for discharge. The petitioner has also prayed for quashing of an order dated 18-09-2010 whereby charge under Section 498(A) of the Indian Penal Code has already been framed against the petitioner.

Learned counsel for the petitioner, at the very outset, tried to persuade the Court that F.I.R. itself was virtually filed in the garb of restitution of conjugal rights. He submits that no offence under Section 498(A) of the I.P.C. is made out as per F.I.R., however; he accepts that after investigation, police has already submitted chargesheet and thereafter, at the stage of charge, petitioner filed discharge petition, which has been



rejected, assailed by the petitioner before the revisional court, which too rejected and thereafter, charge has already been framed. Now, the petitioner, besides making prayer for quashing of two orders i.e. order of rejection of discharge petition as well as order of rejection of criminal revision, has also prayed for quashing of order framing charge.

Without going into detail, prima facie, the Court is of the opinion that once in a criminal case, charge is framed, it is deemed that trial has already commenced. Accordingly, after commencement of trial, it would not be advisable for this Court to exercise power under Section 482 of the Cr.P.C. to interfere with the trial. Moreover, order rejecting discharge petition has already been approved by the revisional court. Once a revision is rejected against order of discharge, in normal course, a petition filed under Section 482 of the Code of Criminal Procedure can be considered as second revision, which is barred under Section 397(3) of the Cr.P.C.

In view of facts and circumstances, particularly; the fact that charge has already been framed, meaning that trial has commenced, I do not find any ground to interfere with the matter. However, while dismissing the present petition, keeping in view the fact that charge was framed in the year 2010 and

thereafter, the trial is pending for such a long time and even in the year 2014, an order of stay was passed by this Court, while dismissing the present petition, the Court direct the trial court to proceed with the case expeditiously so that the case may come to its logical end without unnecessary delay.

(Rakesh Kumar, J.)

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