

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.9545 of 2016

Arising Out of PS.Case No. -62 Year- 2014 Thana -SAMASTIPUR COMPLAINT CASE District-
SAMASTIPUR

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1. Ajit Kumar S/o Late Raji Mandal @ Rajeev Mandal, Resident of Village
+ P.O. - Parsa, P.S. - Hathauri, District - Samastipur.

.... Petitioner/s

Versus

1. The State of Bihar
2. Reena Kumari, D/o Shatrudhan Mandal, Village - Sihuli, P.O. -
Sripurgahar, P.S. - Khanpur, District - Samastipur.
3. Banish kumar Jha @ Baua Jha, S/o Sri Radhe Kant Jha, village + P.O. -
Boraj, P.S. - Hathauri, District - Samastipur.

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Mukund Mohan Jha, Adv.

For the Opposite Party/s : Mr. B.N. Pandey (App)

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**CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR
JHA**

ORAL ORDER

2 26-08-2016 Heard both sides.

The petitioner filed this petition under Section 482 of the
Cr.P.C. for quashing the order dated 04.04.2014 passed in
Complaint Case No. 62/2014 by which the learned Judicial
Magistrate Ist Class, Rosera found prima facie case under Sections
498A, 323 of the Indian Penal Code and Sections 3, 4 of Dowry
Prohibition Act.

The complainant alleged in her complaint petition that
she married to the petitioner on 17.06.2011. At the time of
marriage her father gifted many ornaments and household goods,
but when the complainant went to her sasural the accused persons



began to demand different articles and due to non-fulfillment of demand of dowry they subjected her to physical and mental torture. The complainant made allegations against her husband (petitioner) about the demand of dowry and torture. On such complaint petition having been filed, the complainant and her witnesses Satrugan Mandal and Shiv Prasad Singh were examined. Learned Judicial Magistrate after perusing the evidence collected during the course of inquiry found prima facie case under Sections 323, 498A of the Indian Penal Code and Sections 3, 4 of Dowry Prohibition Act.

Learned counsel for the petitioner assailed the order on the ground that the wife/complainant does not want to live with the husband. Panchayati was held in which the complainant showed her unwillingness to live with her husband. The husband filed divorce case. Thereafter, the complainant filed maintenance case which was dismissed, but thereafter the complainant filed this complaint case making allegation of demand of dowry and torture. Therefore, on the face, the order is illegal.

The Judicial Magistrate after enquiry under Section 202 of Cr.P.C. is to look into the only materials whether prima facie case is made out against the accused or not and, if after enquiry, the Judicial Magistrate finds that the complainant and witnesses

have stated that the petitioner being the husband subjected his wife to physical and mental torture due to non-fulfillment of demand of dowry and found prima facie case to proceed against the accused under Sections 323, 498A of the Indian Penal Code and Sections 3, 4 of the Dowry Prohibition Act as the Learned Judicial Magistrate is not at all legally authorized to look into any other documents or the facts of litigation between the husband and wife as to whether prima facie case is made out or not.

I do not find any illegality in the order impugned. Accordingly, this quashing petition is dismissed.

(Prabhat Kumar Jha, J.)

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