

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.6801 of 2016

Arising Out of PS.Case No. -22 Year- 2013 Thana -MAHILA P.S. District- LAKHISARAI

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1. Chandan Kumar @ Chandan Kumar Modi Son of Uchit Modi
 2. Uchit Modi@Dass@Gupta Son of late Sahdeo Prasad Gupta`
 3. Meena devi@Munia devi Wife of Uchit Modi All Resident of Village Marpakala, P.s Dharahara, Distt Munger.

.... Petitioner/s

Versus

1. The State of Bihar.
2. Puja kumari wife of Chandan Kumar, Daughter of Bholu Modi Resident of Mohalla- Lakhmohana, ward no. 28, Naya Bazar, P.s Kabaiya, District Lakhisarai.

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Narsingh Tanti
For the Opposite Party/s : Mr. J.Upadhyay(App)

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CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH
ORAL ORDER

2 15-07-2016

The present application has been filed for quashing the order dated 10.11.2015 passed by learned Sub-Divisional Judicial Magistrate, Lakhisarai in connection with G.R. No. 462 of 2013, arising out of Mahila P.S. Case No. 22 of 2013 whereby charges have been framed under Sections 498(A)/34 of the Indian Penal Code and Section 3/4 of the Dowry Prohibition Act.

It is submitted by learned counsel for the petitioners that petitioner No. 1 is husband of the informant and petitioner nos. 2 and 3 are the parents of petitioner no.1. Petitioner no.1 is still ready to keep the informant as wife with full dignity

and honour. A statement to that effect has been made in para 9 of the petition which reads as follows:-

“That further it is submitted by the petitioners that the petitioner No. 1(husband) is ready to keep his wife with full dignity but the informant (O.P. No. 2) is not ready to live with her husband.”

The criminal case got initiated by getting Lakhisarai Mahila P.S. Case No. 22 of 2013 registered under Section 498A, 323, 341, 504, 506, 379, 376/34 of the IPC and Section 3/4 of the Dowry Prohibition Act. The informant claims to have been married with petitioner no.1 on 17.03.2012 but subsequently the informant was being tortured for non-fulfillment of further dowry demand and driven out from the matrimonial house after snatching her jewellery and other belongings.

It is submitted by learned counsel for the petitioners that the charges have mechanically been framed.

The present quashing application does not stipulate as under what provision the final report (chargesheet) was submitted or cognizance was taken, though, charges have been framed by the impugned order under Sections 498A/34 of the IPC. The quashing application also does not stipulate that whether any application for discharge under Section 239 Cr. P.C. was preferred by the petitioners. In a warrant case the accused can be

discharged. If, upon considering the police report and the documents sent with it under section 173 and making such examination, if any, of the accused as the Magistrate thinks necessary and after giving the prosecution and the accused an opportunity of being heard, the Magistrate considers the charge against the accused to be groundless.

Learned counsel for the petitioner failed to suggest that the charges against the petitioners are groundless. The only contention raised by counsel for the petitioners is that the petitioner no.1 is still ready to keep the informant as wife with full dignity and honour.

The Apex Court in the case of K. Srinivas Rao Vs. D.A. Deepa reported in (2013)5 SCC 226 held that the criminal courts dealing with the complaint under Section 498A of the Indian Penal Code should, at any stage and particularly, before they take up the complaint for hearing, refer the parties to mediation centre if they feel that there exist elements of settlement. Paragraph no. 46.2 of the judgment reads as follows:-

"The criminal courts dealing with the complaint under Section 498A IPC should, at any stage and particularly, before they take up the complaint for hearing, refer the parties to mediation centre if they feel that there exist elements of settlement and both the parties are willing. However, they should take care to see that in this exercise, rigour, purport and efficacy of Section 498A IPC is not diluted. Needless to say that the discretion to

grant or not to grant bail is not in any way curtailed by this direction. It will be for the court concerned to work out the modalities taking into consideration the facts of each case."

Though this Court is not inclined to interfere with the impugned order, however, learned court below is not precluded to make effort to get the issue reconciled by referring the matter to the mediation center even at this stage of proceeding.

Accordingly the application is disposed of.

(Dinesh Kumar Singh, J)

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