

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.51577 of 2013

Arising Out of PS.Case No. -708 Year- 2006 Thana -WEST CHAMPARAN COMPLAINT District-
WESTCHAMPARAN(BETTIAH)

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Umesh Prasad S/O Sri Ori Sah Resident Of Village- Narainapur, Bhagat Singh
Chowk, P.S.- Ramnagar, District- West Champaran

.... Petitioner

Versus

1. The State Of Bihar
2. Most. Panmati Devi W/O Late Ramesh Sah And Late Dinesh Sah Resident Of
Village- Narainapur, Bhagat Singh Chowk, P.S.- Ramnagar, District- West
Champaran

.... Opposite Parties

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Appearance :

For the Petitioner : Mr. Umesh Chandra Verma, Advocate.
For the State : Mr. Raj Kishore Singh (APP)

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CORAM: HONOURABLE MR. JUSTICE JITENDRA MOHAN SHARMA
ORAL JUDGMENT
Date: 05-12-2017

This Criminal Miscellaneous has been filed against
the order dated 31.10.2013 passed by the learned Sub. Divisional
Judicial Magistrate, Bagaha, West Champaran in Trial No. 1540 of
2013 arising out of Complaint Case No. C-708 of 2006 under section
498 (A) of the I.P.C, whereby and whereunder, the petition filed by
the petitioner dated 10.07.2012 for discharge under section 245 of the
Cr.P.C. was dismissed.

2. Heard the learned counsel for the petitioner, the
learned A.P.P. for the State and the learned counsel for the opposite



party no.2 and perused the impugned order.

3. The petitioner is Devar of opposite party no.2 and in the complaint petition there is allegation that he along with father-in-law used to torture her and for that a petition was filed before the Bihar Rajya Mahila Ayog, Patna on 29.06.2006. The accused persons were summoned by the I.O. and they were restrained from harassing the complainant. The opposite party no.2 had first married to Ramesh Sah, the elder brother of the petitioner and from the wedlock two children, namely, Bihari Sah and Anjani Kumari were born and after his death she was married with another son Dinesh Sah and after few months he too died. Subsequently, the father-in-law started demanding more dowry to get her married with the petitioner for which father of the opposite party no.2 was not ready. On 21.11.2006 they assaulted her by fists and slaps and also caused threats to do away with her life if she did not bring Rs. 10,000/-.

4. The aforesaid complaint was referred to the file of Sri B.K. Singh, the learned Judicial Magistrate, 1st Class, Bagaha. The complainant was examined on the solemn affirmation and two witnesses, namely, Jagarnath Singh and Krishnandan Gupta were also examined during enquiry and after considering the materials available during enquiry prima-facie case under section 498 (A) I.P.C. was found by the learned court below and accordingly the order dated



01.06.2007 was passed. The aforesaid order was challenged in Criminal Revision No. 134 of 2007 and the same was heard and disposed of with a direction to raise all the points at the stage of framing of charge vide order dated 22.04.2008 passed by the learned Sessions Judge, West Champaran, Bettiah and thereafter three witnesses before charge were examined and on 10.07.2012 a petition for discharge was filed on behalf of the petitioner on the ground that against the petitioner there is no specific allegation. The petitioner is not alleged to have demanded dowry for his marriage with the opposite party no.2, rather it has been alleged against the father-in-law who has already died. The allegations are not believable because after death of two sons the father would not want to marry his third son with her and even if he would be ready to do so, he would not demand dowry. The petitioner neither expressed his willingness to marry her nor demanded dowry for that. In fact, the present case has been filed only as a pressure tactics for affecting partition of family property as she has filed Partition Suit No. 34 of 2006 in the court of the learned Sub. Judge, Bettiah. The learned Magistrate after hearing the parties on discharge petition passed the impugned order. It is submitted that the impugned order is palpably wrong, erroneous, illegal and not sustainable in the eye of law and as such the same is fit to be quashed. The allegations are absurd. It is alleged that as per allegation the



accused persons were mounting such pressure on the opposite party no.2 for the marriage with the petitioner and were demanding Rs. 10,000/- for performing marriage. There is no specific allegation against the petitioner and as such the impugned order is fit to be set aside.

5. The learned A.P.P. and the learned counsel for the opposite party no.2, on the other hand, submit that the complainant's witness nos. 1, 2 and 3 have stated regarding hand of the petitioner in torturing her and demanding Rs. 10,000/- as dowry and the learned Magistrate after considering all these things and the evidences available before charge has rejected the petition under the impugned order which is quite legal, proper and correct.

6. Having considered the submissions urged at the Bar, going through the record, it is manifest that before charge the complainant's witness nos. 1, 2 and 3 have stated that the petitioner also tortured and demanded Rs. 10,000/- and the learned Magistrate after considering all these facts has passed the impugned order which appears quite proper, legal and correct. The learned S.D.J.M. after considering the evidences available on the record before charge had passed the impugned order. There is no need of any interference by this Court. Against the petitioner also there is allegation for torturing and demanding dowry and as such the impugned order is hereby



confirmed and finding no merit in this Criminal Miscellaneous the same stands dismissed.

(Jitendra Mohan Sharma, J)

Abhay/-

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