

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.5336 of 2017

Arising Out of PS.Case No. -28 Year- 2013 Thana -DAUDPUR District- SARAN

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Rajeev Ranjan Son of Sri Shivjee Roy, Resident of Village- Helalpur, Ward
No. 2, P.S.- Industrial Area Hajipur, District- Vaishali.

.... Petitioner/s

Versus

1. The State of Bihar
2. Sri Ram Surat Yadav son of Late Budhu Yadav
3. Anita Kumari wife of Rajeev Ranjan and daughter of Sri Ram Surat
Yadav both opposite parties no. 2 and 3 are Resident of Village- Ariaon
ke Tola, P.S.- Daudpur, District- Saran.

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Anirudh Kumar Sinha

For the Opposite Party/s : Mr. Sri Ramchandra Singh

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CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH

ORAL ORDER

02/ 19-05-2017

Heard Mr. Rakesh Kumar Samrendra, learned
counsel for the petitioner, Mr. Krishna Prasad Singh, learned
senior counsel for the opposite parties and Mr. J.N. Thakur,
learned counsel for the State.

The present application has been filed for
quashing the order dated 25.11.2016 passed by learned Additional
Sessions Judge-X, Patna in Sessions Trial No. 87 of 2016/583 of
2016 arising out of Daudpur (Saran) P.S. Case No. 28 of 2013,



whereby petitioner's application for discharge under Section 227 Cr.P.C. has been rejected.

Through I.A. No. 747 of 2017 prayer has been sought to be amended to the extent of quashing the order dated 10.01.2017 passed by learned Additional Sessions Judge-X, Patna in Sessions Trial No. 583 of 2016 arising out of Daudpur (Saran) P.S. Case No. 28 of 2013, whereby charges have been framed against the petitioner under Sections 498A, 307, 313 of the Indian Penal Code and section 4 of dowry Prohibition Act.

The factual matrix of the case is that the petitioner is the husband of the daughter of the informant. The marriage between the petitioner and daughter of the informant on 12.06.2010 is admitted. The matrimonial life was compatible for sometime, but thereafter it is alleged that the petitioner and his family members began demanding Ten lakh rupees for purchasing a flat at Delhi.

In the meantime, the daughter of the informant, conceived, but due to the assault by the family members of the petitioner the pregnancy got terminated and ultimately she was driven out from the matrimonial house. The informant tried to resolve the issue, but failed. Ultimately Daudpur P.S. No. 38/2013 was registered on the written report of informant



Ram Surat Yadav with accusations under Sections 323, 341, 313, 379, 307, 498A/34 of the Indian Penal Code and under Section 3/4 of the Dowry Prohibition Act.

On conclusion of the investigation, final form/charge sheet, finding the case to be true, was submitted, under the aforementioned provisions of the IPC and consequently, order taking cognizance was passed.

On 22.10.2016, the petitioner filed a petition under Section 227 of the Code of Criminal Procedure (hereinafter referred to as the 'Code') for discharge. The learned Additional Sessions Judge-X, Patna, vide order dated 25.11.2016 rejected the petition for discharge on the ground that there is sufficient material available on record to proceed against the petitioner. The said order is impugned in the present application.

The learned Additional Sessions Judge-X, Patna vide order dated 10.01.2017, framed charges against the petitioner under Sections 498A, 307, 313 of the IPC and Section 4 of the Dowry Prohibition Act. The quashing of the same has been prayed for through I.A. No. 747 of 2017 in the present proceeding.

It is submitted by learned counsel for the petitioner that the marriage between the petitioner and the daughter of the informant is admitted, but immediately after the



marriage, O.P. No. 3 the wife of the petitioner had been very rough and cruel to the petitioner and the petitioner's family, particularly to his mother who had undergone heart surgery at the relevant time.

Finding no resolution to the issue, the petitioner filed Matrimonial Suit No. 288/2012 with a prayer for divorce on 02.11.2012 in the court of learned Principal Judge, Family Court, Vaishali at Hajipur. As soon as O.P. No. 2 came to know about filing of Matrimonial Suit No. 288/2012, he began threatening the petitioner, as a result of which the petitioner lodged Sanha No. 526/2013 on 12.02.2013 in the court of C.J.M., Vaishali at Hajipur. Thereafter, the instant FIR was registered on 21.02.2013.

The Matrimonial Suit No. 288/2012 was ultimately dismissed vide judgment dated 29.10.2016 by the Principal Judge, Family Court, Muzaffarpur, since the suit was transferred by the High Court on the prayer of the opposite parties. The petitioner preferred M.A. No. 1363/2016 against the judgment passed in the Matrimonial Suit. The same is pending, where efforts are being made to get the issue resolved, in terms of payment of one time settlement amount.

It is further submitted by the learned counsel



for the petitioner that there is no accusation against the petitioner, of having tortured O.P. No. 3. which resulted into termination of pregnancy.

The prosecution with regard to the co-accused, the other family members of the petitioner, has been quashed by a Bench of this Court vide order dated 11.12.2014 in Cr. Misc. No. 40937 of 2014 and in Cr. Misc. No. 38491 of 2014, contained in Annexure-11 and 11/1.

Learned counsel for O.Ps. submits that after framing of charge, three witnesses have been examined, hence, it is not a case fit for interference at such advanced stage of trial.

Considering the rival submission of the parties, this Court is not inclined to interfere at this advanced stage of the trial. However, this Court cannot be oblivious of the fact that the Apex Court has recognized, mediation as an effective method of alternative dispute resolution in matrimonial matters and this method can be resorted to at any stage of the case, if the offence alleged is under Section 498A of IPC. A useful reference may be had to the case of K. Srinivas Rao Vs. D.A. Deepa, (2013) 5 SCC 226, where the Apex Court has issued directions to the courts dealing with matrimonial matters to follow the method of mediation at any stage of the case. Paragraph nos. 45 and 46, reads



as follows:-

“45. We would, however, like to clarify that reduction of burden of cases on the courts will, however, be merely an incidental benefit and not the reason for sending the parties for mediation. We recognize “mediation” as an effective method of alternative dispute resolution in matrimonial matters and that is the reason why we want the parties to explore the possibility of settlement through mediation in matrimonial dispute.

46. We, therefore, issue directions, which the courts dealing with the matrimonial matters shall follow.

46.1. In terms of Section 9 of the Family Courts Act, the Family Courts shall make all efforts to settle the matrimonial disputes through mediation. Even if the counselors submit a failure report, the Family Court shall, with the consent of the parties, refer the matter to the mediation centre. In such a case, however, the Family Courts shall set a reasonable time-limit for mediation centres to complete the process of mediation because otherwise the resolution of the disputes by the Family Court may get delayed. In a given case, if there is good chance of settlement, the



Family Court in its discretion, can always extend the time-limit.

46.2. The criminal courts dealing with the complaint under Section 498-A 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 498-A 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.

46.3. All mediation centres shall set up pre-litigation desks/clinics; give them wide publicity and make efforts to settle matrimonial disputes at pre-litigation stage.”

In view of the facts discussed above, particularly in view of the fact that some kind of mediation is going on in the Miscellaneous Appeal, the present application is disposed of with a liberty to the learned Trial Court to make an



effort at this stage of trial to resolve the issue through mediation,
provided both the parties agree to it.

DKS/-

(Dinesh Kumar Singh, J)

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