

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.34949 of 2013

Arising Out of PS.Case No. -210 Year- 2008 Thana -NAUBATPUR District- PATNA

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1. Alamgir Ansari S/O Late Sah Jahan Ansari Resident Of Village- Anand Bazar,
D.S.P. Office Road, P.S.- Danapur, District- Patna
2. Farida Khatoon W/O Late Sah Jahan Ansari Resident Of Village- Anand Bazar,
D.S.P. Office Road, P.S.- Danapur, District- Patna

.... Petitioner/s

Versus

1. The State Of Bihar

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Suresh Singh, Advocate.

For the Opposite Party/s : Mr. Jharkhandi Upadhyay, APP.

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CORAM: HONOURABLE MR. JUSTICE VINOD KUMAR SINHA

ORAL JUDGMENT

Date: 12-01-2017

This application has been filed on behalf of the petitioners for quashing the order dated 06.05.2013 passed by Sri Ravi Shankar, Judicial Magistrate 1st Class, Danapur in Naubatpur P.S. Case No. 210 of 2008 by which the petitions filed by the petitioner under Section 239 of the Criminal Procedure Code has been dismissed by the learned court below finding the sufficient materials available on record for framing of charge under Section 239 CrPC.

The prosecution story in short is that the informant has alleged in F.I.R., that her marriage was performed with Alamgir Ansari on 11.11.2006 and after marriage she went to her sasural. The informant has alleged that after one month of marriage my husband Alamgir Ansari demanded fifty thousand rupees and one Hero Honda motor cycle. Further the informant has alleged that my mother and



family members are unable to fulfill such demand due to poverty. It is also the case of complainant and after that her husband and mother-in-law abused and assaulted her and said to her to go to her maikie otherwise she would be killed, and I returned back at her maikie and at present she is living at the house of my “mausi”.

It appears from perusal of the record that police after investigation submitted the charge-sheet in this case against the petitioners under Section 498(A)/34 of the Indian Penal Code and after that the case has been transferred to the court of Sri Ravi Shankar, Judicial Magistrate 1st Class, Danapur for issuance of process and trial.

It further appears that before the trial, the petitioners have filed a petition under Section 239 of the Cr.PC., for discharge of the accused persons stating that no case is made out against them which was dismissed by the learned court below vide order dated 6.5.2013 against which the present application has been filed by the petitioners under Section 482 of the CrPC.

It has been submitted on behalf of the petitioners that from perusal of the materials available and the case diary, no case is made out against the petitioners further there is no independent witness of the occurrence and allegation of assault and torture is general in nature. However the learned court below has rejected the application for discharge of the petitioners without proper application



of mind.

It has been submitted on behalf of the learned APP that the learned court below after perusal of the case diary, has found the sufficient materials available on record for framing of charges against the petitioners and as such dismissed the petition filed by the petitioners.

Having heard both sides and perusal of the impugned order itself, it appears from the F.I.R., there are allegations constituting offence under Section 498A IPC, and the learned court below has also mentioned paras 7, 8, 9, 24 and 29 as well as supervision report which supports the case of the prosecution and accordingly dismissed the petition, fixing the date for framing of charge, on the basis of materials available on record itself. As such it is apparent that there is no illegality in the impugned order and only after finding the sufficient materials for offence under Section 498A, IPC against the petitioners the application filed by the petitioners is dismissed.

Accordingly, I find no merit in this application, hence this application is dismissed.

(Vinod Kumar Sinha, J)

siddharth/-

AFR/NAFR	
CAV DATE	
Uploading Date	
Transmission Date	

