

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.19920 of 2014

Arising Out of PS.Case No. -70 Year- 2010 Thana -PATNA COMPLAINT CASE District- PATNA

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Pravir Kumar son of Sri Ramashray Prasad Saw, resident of Mohalla- Panchsheel
Nagar, P.S. Barh, Distt- Patna

.... Petitioner

Versus

1. The State of Bihar
2. Priyanka Kumari @ Rani, W/o Pravir Kumar R/o Vill- Panchsheel Nagar, P.S.
Barh, Dist- Patna

.... Opposite Party

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Appearance :

For the Petitioner/s : Mr. Arbind Kumar
For the Opposite Party No. 2 : Mr. Sunil Kumar Singh
For the Opposite Party/s : Mr. Madhura Nand Jha, APP

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CORAM: HONOURABLE MR. JUSTICE SANJAY KUMAR

ORAL JUDGMENT

Date: 22-06-2017

Heard both sides.

2. The petitioner seeks quashing of the order dated 18.03.2010 passed by the Judicial Magistrate, 1st Class, Patna City in Complaint Case No. 70 of 2010. The learned Magistrate as per impugned order finding prima facie case for the offence under Section 498A of the Indian Penal Code took cognizance and ordered for issuance of summons against the accused.



3. The facts in brief is that the Opposite Party No. 2 (complainant) filed a complaint case on the file of A.C.J.M., Patna City alleging, inter alia, that she was married with this petitioner on 20.04.1994 and at that time, an amount of Rs. 30,000/- in cash and several articles were given as gift by her father. Her husband and his family members started torturing her for further dowry. They assaulted the complainant and compelled her to leave the matrimonial house. Her husband filed a Matrimonial Case No. 78 of 2004 in the court of Principal Judge, Family Court, which was compromised on the undertaking of her husband to keep the complainant nicely. Her husband and his family members after compromise again started torturing. She was compelled to leave the matrimonial place and presently she is residing at the place of her parents.

4. The learned counsel for the petitioner filed a supplementary affidavit to this effect that he is willing to keep the complainant with full honour and dignity, but his wife has refused to go at his place at any cost. He further submits that after 16 years of marriage, the complainant has filed this case with false and frivolous allegation. She is not willing to lead conjugal life with this petitioner. The petitioner showing his willingness filed a case



for restitution of conjugal rights. In stead of best efforts of the petitioner his wife refused to live at his place and so, no offence under Section 498A of the Indian Penal Code is made out and the order is fit to be quashed.

5. The learned APP for the State and counsel for the informant (Opposite Party No. 2) submitted that at the time of enquiry, the complainant on her S.A. and her other witnesses supported the allegation of assault and torture. The learned counsel referred paragraph-4 of the complaint petition wherein she has specifically stated that she entered into compromise in a case filed for restitution of conjugal rights by her husband, but subsequently, her husband again started torturing and so, this criminal application is fit to be dismissed.

6. On perusal of impugned order, I find that this petitioner is the husband of the complainant and specific allegation is that he used to torture and assault the complainant since the date of marriage. The complainant in her S.A. and other witnesses at the time of enquiry supported the allegation of torture against the petitioner. The court blow finding sufficient material against the petitioner for offence under Section 498A of the Indian Penal Code took cognizance and ordered for issuance of summons.



7. In view of the facts and materials available on record, I find that no case for quashing the cognizance order is made out. This application is devoid of merit. Accordingly, this Criminal Miscellaneous Application is dismissed.

(Sanjay Kumar, J)

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