

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.43327 of 2011

Arising Out of PS.Case No. -0 Year- null Thana -null District- PATNA

=====

1. Manish Kumar Panjiyar S/O Sri Ashok Kumar Panjiyar Mohalla Flat No. B/15
,Raghuvansh Apartment, Shashtri Nagar , P.S. Shashtri Nagar, District Patna

.... Petitioner/s

Versus

1. The State Of Bihar
2. Sudha Kumari W/O Manish Kumar Panjiyar And D/O Sri Ram Chandra Bhagat
Flat No.8/93 ,Weaker Section, Kankarbagh Colony, P.S. Kankarbagh, District
Patna

.... Opposite Party/s

=====

Appearance :
For the Petitioner : Mr. Binod Kumar Sinha, Sr. Adv.
For the Opposite Party : Mr. Praveen Kumar, Adv.
Mr. Pawan Kumar, Adv.
Mr. Birendranath Srivastava, Adv.
For the State : Mr. Jharkhandi Upadhyay, APP

=====

CORAM: HONOURABLE MR. JUSTICE SANJAY PRIYA

ORAL JUDGMENT

Date: 23-11-2017

This application has been filed for quashing the order dated 14-01-2011 passed by Sri Sunil Kumar-II, learned Judicial Magistrate-Ist Class, Patna in Complaint Case No. 2770C of 2010 by which, the learned Magistrate after holding inquiry u/S 202 Cr.P.C. has found prima facie against the petitioner for the offence under Section-498A of the IPC.

Counsel for the petitioner has submitted that several litigations are pending between the parties. The husband and his family members have been tortured by the complainant, for which, a separate case was filed and charge sheet has been submitted and



cognizance has also been taken.

Counsel for the petitioner has further submitted that the instant case has been filed just to harass the petitioner.

Counsel for opposite party No. 2 has submitted that petitioner is husband. This is a classic case, where husband has tortured the wife since the date of marriage. He made physical relation with his wife, on account of which, the complainant (wife) became pregnant. Later on, the husband made statement that wife has not become pregnant on account of physical relation with him. The husband got document prepared forcibly by the wife to the effect that this pregnancy is from her first cousin. He also filed Divorce Case on the aforesaid ground. Thereafter, by order of the court, D.N. A. test was held. It was found after D.N.A. test that the child is born from the petitioner. It has further been submitted that the wife (opposite party No. 2) has also been tortured in the Sasural for demand of Rs. 5,00,000/- in dowry and she was ousted from the Sasural due to non-fulfillment of aforesaid demand.

The opposite party No. 2 has submitted that in terms of the order of this court dated 18-02-2015 Rs. 5,000/- maintenance, was directed to be paid by the petitioner to the opposite party No. 2 , till the time it is revised, but that payment has also not been made by the petitioner. It is clear violation of the order of this court.



The complainant in her S.A. and other witnesses during enquiry have supported the case of complainant.

From the allegation made in the complaint petition, as well as conduct of the petitioner as stated above in detail and the statement of witnesses recorded during enquiry, this court does not find any illegality in the impugned order.

The learned Magistrate is required to see only prima facie case at the time of holding enquiry.

Accordingly, this Cr. Misc. Application is dismissed.

The court below is directed to proceed in the case in accordance with law.

(Sanjay Priya, J)

A.K.V./-

AFR/NAFR	NAFR
CAV DATE	N/A
Uploading Date	05-12-2017
Transmission Date	05-12-2017

