

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.48360 of 2014

Arising Out of PS.Case No. -2416 Year- 2011 Thana -KATIHAR COMPLAINT CASE District- KATIHAR

1. Pradeep Kumar Choudhary S/o Rajendra prasad Resident of Village Banmankhi,
Ward No. 7, P.O. + P.S. Banmankhi, District Purnea.

.... Petitioner/s

Versus

1. The State of Bihar.

2. Nitu Kumari D/o Awadhesh Kumar Choudhari, W/o Pradeep Kumar Choudhary
At Sakraili Shemapur, P.S. Barari, District Katihar.

.... Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Anil Kumar Anal, Adv.

For the Opposite Party/s : Mr. Satyendra Prasad, APP

CORAM: HONOURABLE MR. JUSTICE ASHWANI KUMAR SINGH

ORAL JUDGMENT

Date: 01-09-2017

In the present application, the petitioner has challenged the order dated 12.03.2014 passed by the learned Sub-Divisional Judicial Magistrate, Katihar in Complaint Case No. 2416 of 2011 by which charge has been framed against the petitioner under Section 498-A of the Indian Penal Code (for short 'IPC').

2. The complainant is the wife of the petitioner. She has alleged that after the marriage was solemnized on 17.06.2009, the petitioner subjected her to cruelty in various ways. The complainant has supported the allegation in her examination on solemn affirmation. In course of inquiry conducted under Section 202 of the Code of Criminal Procedure (for short 'Cr.P.C.'), certain witnesses were examined on her behalf whereafter the jurisdictional Magistrate, finding a prima facie case to be made out under Section 498-A of the IPC, summoned the petitioner to face trial. Before charge, besides the



complainant, witnesses were examined in support of the complainant. On the basis of their statements, the court below found sufficient material to frame charge against the petitioner and, thus, charge has been framed against the petitioner under Section 498-A of the IPC.

3. I have heard learned counsel for the petitioner and perused the record.

4. It has been submitted by the learned counsel for the petitioner that the allegations made by the witnesses examined on behalf of the complainant before charge are not correct. He has submitted that the complainant herself has abandoned her matrimonial home and there is absolutely no truth behind her contention that she was subjected to cruelty or has been deserted by the petitioner.

5. Section 246 of the Cr.P.C. stipulates that upon taking all the evidence referred to in Section 244 of the Cr.P.C. if the Magistrate forms an opinion that there is ground for presuming that the accused has committed an offence, which such Magistrate is competent to try, he shall frame in writing a charge against the accused.

6. The defence of the petitioner cannot be made a ground for his discharge under Section 245 of the Cr.P.C. The probative value of such defence can be appreciated by the jurisdictional Magistrate at the appropriate state of trial.



7. Since the evidences led under Section 244 of the Cr.P.C. incriminates the petitioner, I see no illegality in the order passed by the jurisdictional Magistrate whereby charge has been framed against the petitioner.

8. In that view of the matter, I see no merit in this application. It is accordingly dismissed.

(Ashwani Kumar Singh, J)

Pradeep/-

AFR/NAFR	NAFR
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