

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.13514 of 2014

Arising Out of P.S.Case No. -330 Year- 2013 Thana -BHAGALPUR COMPLAINT CASE District- BHAGALPUR

Md. Nabi Hassan @ Tinkoo S/O Shamim Hasan Resident Of Village Jaba Chowk, Police Station Tatarpur (Kotwali), District Bhagalpur.

.... Petitioner

Versus

- 1. The State of Bihar
- 2. Noor Jahan @ Bibi Noor Jahan Begum W/O Md. Nabi Hasan @ Tinkoo D/O Sk. Rashid Resident Of Village Tarar, P.S. Sanolah, District Bhagalpur.

.... Opposite Parties

Appearance :

For the Petitioner : Mr. Md. Najmul Hoda, Advocate
For the Opposite Parties : Mr. Shivesh Chandra Mishra, Advocate.

CORAM: HONOURABLE MR. JUSTICE SANJAY KUMAR

ORAL JUDGMENT

Date: 24-07-2017

This criminal miscellaneous application has been filed for quashing the order dated 30.01.2014 passed by learned SDJM, Bhagalpur in Complaint Case No.330C of 2013 whereunder the Magistrate finding prima-facie case for the offence under Section 498A of the IPC and Section 4 of the Dowry Prohibition Act summoned the petitioner.

2. Heard Sri Najmul Holda, learned counsel for the petitioner as well as Mr. Shivesh Chandra Mishra, counsel for the Opposite Party No.2.

3. Learned counsel for the petitioner submits that the petitioner is the husband of Opposite Party No.2. The matter between the parties has been settled and now the Opposite Party No.2 has no grievance against the petitioner and so the impugned order taking cognizance against the petitioner is fit to be quashed.

4. Learned counsel for the Opposite Party No.2 as well as learned APP opposes the submissions. It was submitted that even if the dispute between



the parties has been resolved it cannot be a ground of quashing the impugned order. The parties at best may raise this point before the court below where the matter could be decided on merit.

5. On perusal of complaint petition as well as impugned order, I find that the complainant (Opposite Party No.2) has specifically alleged that since the date of marriage her husband started torturing her as his demand of payment of Rs.1,00000/- was not fulfilled. The complainant in her solemn affirmation and other witnesses have supported the allegation of torture and demand of money. The learned Magistrate as per impugned order dated 30.01.2014 has rightly taken cognizance under Section 498A of the IPC and Section 4 of the Dowry Prohibition Act. It further appears that on the request of both the parties, the matter was referred to Patna High Court Mediation & Conciliation Centre as per order dated 22.09.2014. The Mediation Centre has reported that in spite of sincere efforts, the dispute between the parties could not be resolved through the process of mediation.

6. In view of above discussions, I do not find any merit in this application. Accordingly, this application is dismissed. It is however observed that if the plea of settlement of dispute is raised by the petitioner before the court below, the same shall be considered on its own merit without being prejudiced by this order.

(Sanjay Kumar, J)

B.Kr./-

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CAV DATE	
Uploading Date	01.08.2017
Transmission Date	01.08.2017

