

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.35692 of 2014

Arising Out of P.S.Case No. -1071 Year- 2011 Thana -MUNGER COMPLAINT CASE District-
MUNGER

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Rakesh Kumar Sharma Son of Shankar Mistry @ Shankar Sharma resident of
village- Shambhuganj, P.S.- Shambhuganj, District- Banka

.... Petitioner

Versus

1. The State of Bihar
2. Sony Devi D/o Jago Sah Wife of Rakesh Kumar Sharma Resident of Mohalla-
Chhoti Keshopur, P.S.- Jamalpur, District- Munger.

.... Opposite Parties

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Appearance :

For the Petitioner	:	Mr. Bhavesh Kumar, Advocate
For the Opposite Party No.2	:	Mr. Manoj Kumar Singh, Advocate
For the State	:	Mr. Sanjay Kumar Singh, APP

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CORAM: HONOURABLE MR. JUSTICE SANJAY KUMAR

ORAL JUDGMENT

Date: 31-10-2017

This application under Section 482 of the Cr.P.C. has been filed to quash the order dated 01.03.2012 passed by SDJM, Sadar, Munger in Complaint Case No.1071 of 2011 whereby and whereunder the learned SDJM took cognizance for the offence under Section 498A/34 of the IPC and Sections 3/4 of the Dowry Prohibition Act.

2. Heard learned counsel for the petitioner, learned counsel for the Opposite Party No.2 as well as learned APP for the State.

3. It has been submitted that the Opposite Party No.2 is wife of this petitioner and she has filed a series of cases against the petitioner. After filing of complaint case no.1071C of 2011, she has



filed a police case vide Jamalpur P.S. Case No.98 of 2012 for the offence under Section 498A/34 of the IPC and Section 3/4 of the Dowry Prohibition Act. After investigation, the police have submitted chargesheet no.143 of 2012 on 31.10.2012. Besides the said cases, she has filed a Miscellaneous Case No.81 of 2014 and as per direction of Principal Judge, Family Court given on 26.05.2014 the petitioner is paying maintenance to the Opposite Party No.2. The allegation of torture and demand of dowry is omnibus. The allegation in complaint case and police case is one and the same and so the petitioner can't be prosecuted in two different cases for the similar charges and so the prosecution of the petitioner is bad and is fit to be quashed.

4. The learned counsel for the Opposite Party No.2 as well as Additional P.P. opposed the submission.

5. On perusal of complaint petition and allegation made in the police case, I find that both the cases relate to torture and demand of dowry by the petitioner. The learned Magistrate after going through the complaint petition, statement of complaint on solemn affirmation and other witnesses, has taken cognizance against the petitioner as per order dated 01.03.2012. The cognizance order is based on material on record and I do not find any illegality requiring any interference with the impugned order. However, the police case which is pending for framing of charge is ordered to be amalgamated with the present



complaint case.

6. With this observation, this criminal application is disposed of.

(Sanjay Kumar, J)

B.Kr./-

AFR/NAFR	NAFR
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