

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.41514 of 2014

Arising Out of PS.Case No. -1307 Year- 2012 Thana -SITAMARHI COMPLAINT CASE District-SITAMARHI

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Md. Abdul Salam @ Md. Salam, Son of Late Md. Salahuddin Resident of Village-Hehsaul Got, Ward No.-11, P.S.-Sitamarhi, District-Sitamarhi.

.... Petitioner/s

Versus

1. The State of Bihar
2. Nikhahat Praween, D/o Md. Mostaq, Resident of Village-Mirzapur, P.S.-Bazpatti, District-Sitamarhi.

.... Opposite Party/s

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Appearance :

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

For the Opposite Party no.1 : Mr. Binod Kumar No.3, APP

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CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD

ORAL JUDGMENT

Date: 11-10-2017

Heard learned counsel for the petitioner and learned APP for the State. No one appears for the opposite party no.2.

Petitioner is the father-in-law of the complainant who is seeking quashing of the order taking cognizance dated 16.11.2012 passed by learned Chief Judicial Magistrate, Sadar, Sitamarhi in T.R.No.2490 of 2014, arising out of Complaint Case No.C-1/1307/12, by which the learned Magistrate has taken cognizance under Section 498A of the Indian Penal Code and issued summons against the petitioner along with other accused persons.

Learned counsel for the petitioner submits that the opposite party no.2 was married with Md. Maksood Alam on



15.03.2007 in accordance with Muslim Rites and Customs. According to learned counsel, a perusal of Annexure-1 i.e. the complaint petition itself would show that there is no specific allegation against this petitioner. The entire family members have been implicated in the present case. The husband of the complaint is working at New Delhi which is admitted in the complaint petition. Earlier also the opposite party no.2 had lodged a case being Sitamarhi P.S. Case No.500 of 2009 which was amicably resolved and the husband of the complainant agreed to pay her maintenance and keep her with him. The complainant has in fact stated in the complaint petition that when she reached New Delhi the husband of the complainant and his brother-in-law Md.Salauddin wanted to sell her. Thereafter, again a panchayati took place where it was decided that she will live in her Naihar and her husband Md. Maksood Alam shall bear the maintenance. Her husband paid her maintenance at the rate of Rs.2,000/- per month for three months, but thereafter he stopped paying maintenance, as a result thereof when complainant reached her sasural in village Mehsaul on 15.7.2012 she found that her husband had solemnized another marriage with accused no.8 in connivance with other accused persons. It is alleged that when she protested against this all the accused persons threatened her, asked her to get out from the house and on protest they indulged in giving fists blow.



Learned counsel submits that this petitioner is the father-in-law, an old age person, who has no concern with his son and from perusal of the entire complaint petition it will appear that there is no specific allegation either of demand of dowry or of committing any overt act against the petitioner. The entire complaint moves around the conduct of her husband.

No one has appeared to oppose the present application on behalf of the opposite party no.2.

This Court has perused the complaint petition and comes to a conclusion that there is no specific allegation against this petitioner and only reason for implication of this petitioner is that he is the father-in-law of the opposite party no.2. This Court is of the considered opinion that further continuation of the prosecution against the petitioner would be an abuse of the process of the Court.

In the result, the application is allowed in respect of the present petitioner and the order taking cognizance in so far as it relates to him is hereby quashed.

(Rajeev Ranjan Prasad, J)

Arvind/-

AFR/NAFR	
CAV DATE	
Uploading Date	14.10.2017
Transmission Date	14.10.2017

