

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.27119 of 2014

Arising Out of PS.Case No. -1283 Year- 2008 Thana -GAYA COMPLAINT CASE District- GAYA

Vinay Kumar Verma @ Binay Kumar S/o Sri Kailash Prasad Resident of Village Kharath, P.S. Giriyak, District Nalanda.

.... Petitioner/s

Versus

1. The State of Bihar.
2. Rani Lakshmi W/o Vinay Kumar Verma @ Binay Kumar, D/o Bhagirath Prasad At Bhagirath Bhawan, Mohalla Bageshwari Road, Sanjay Nagar, P.S. Delha, District Gaya. Presently Rani Lakshmi W/o Ajit Kumar, Alpla India Pvt. Ltd. Baddi, (Plastic Bottle manufacture), Phase-02, Plot No. 100, EPIP, Pase-II, Thana Baddi, Pin-173205, Himachal Pradesh

.... Opposite Party/s

Appearance:

For the Petitioner/s : Mr. Mahendra Prasad Verma, Advocate.

For the State : Mr. C. Sen Pd. Singh, APP.

For the Opposite Party No.2 : None.

CORAM: HONOURABLE MR. JUSTICE PRAKASH CHANDRA JAISWAL

ORAL JUDGMENT

Date: 12-07-2017

Heard learned counsel for the petitioner as well as learned APP for the State. No one turned up on behalf of opposite party no.2.

This application under Section 482 of the Code of Criminal Procedure has been filed for quashing the order dated 02.09.2008 passed by learned Sub-Divisional Judicial Magistrate, Gaya in Complaint Case No. 1283 of 2008 whereby the learned Magistrate ordered to issue summon against the petitioner and others finding prima facie case under Section 498A of the Indian penal



Code and Section 4 of the Dowry Prohibition Act.

It has been submitted by learned counsel for the petitioner that the complainant has performed second marriage with some other person illegally and she has refused to live with the petitioner vide Para 6 of Annexure-4, hence, the impugned order be quashed.

No one appeared on behalf of opposite party no.2 despite valid service of notice to the counsel appearing for opposite party no. 2.

As per the complaint petition filed by the complainant, she was married with the petitioner, namely, Binay Kumar @ Budhdeo Prasad. After two-three days of the marriage, She was subjected to torture and cruelty for demand of Maruti Car in dowry. Her husband had illicit relation with her gotni and on protest made by her against the said relation, the accused persons thrashed her and threatened for dire consequences in case of disclosure of the said relation. They also drove her out of her matrimonial house after thrashing and snatching her belongings for the said dowry demand.

During the course of enquiry, the complainant examined herself on solemn affirmation and also examined three enquiry witnesses. On perusal of the complaint petition and considering the materials available on record, the learned Magistrate



finding prima facie case against the petitioner and others under Section 498A of the Indian Penal Code and Section 4 of the Dowry Prohibition Act has ordered to issue summon against them.

The aforesaid submission made by the learned counsel for the petitioner is not convincing and acceptable as from perusal of Para-6 of Annexure-4, it appears that the complainant has denied to live with her husband scaring threat to her life at the hand of the petitioner and performance of second marriage by the complainant as alleged by the petitioner is a matter of consideration in trial and not at the stage of taking cognizance and furthermore it has no bearing on the merit of this case.

In the facts and circumstances of the case, I do not find any substance in this petition. Accordingly, this quashing petition is dismissed.

(Prakash Chandra Jaiswal, J)

Mishra/-

AFR/NAFR	N.A.F.R.
CAV DATE	N.A.
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