

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.9205 of 2014

Arising out of PS.Case No. -92 Year- 2011 Thana -KARJA District- MUZAFFARPUR

=====

Sashi Ranjan Kumar, Son of Anutha Rai, Resident of Village Pakri Pakchi, P.S. Karza, District Muzaffapur

.... Petitioner

Versus

1. The State of Bihar
2. Sabita Devi, Wife of Sashi Ranjan Kumar, Daughter of Bhubneshwar Prasad Sharma, Resident of Village Pursottampur, P.O. Pursottampur, P.S. Maniyari, District Muzaffapur

.... Opposite Parties

=====

Appearance :

For the Petitioner	:	Mr. Nachiketa Jha, Advocate
For the State	:	Mr. M.K. Nirala, APP
For O.P. No.2	:	Mr. S.R.C. Pandey, Advocate

=====

CORAM: HONOURABLE MR. JUSTICE ARUN KUMAR

ORAL JUDGMENT

Date: 31-07-2017

The petitioner has filed this application under Section 482 Cr.P.C. challenging order dated 26.07.2013, passed by learned S.D.J.M. (West), Muzaffarpur in Karza P.S. Case No.92 of 2011 whereby cognizance of the offence has been taken under Sections 498A/34 IPC as well as under Sections 3/4 of the Dowry Prohibition Act.

2. The informant, wife of the petitioner is opposite party no.2 in this case. Brief fact as stated in the FIR is that opposite party no.2 was married in the year 2006 with the petitioner who is employed in Indian Army and used to visit the home on leave. There is also a girl child born out of the wedlock. However, since 2010 her husband and all family members, father-in-law, mother-in-law and



brother-in-law started pressurizing her for bringing Rs.2,00,000/- and a motorcycle from her father and also threatened opposite party no.2 that her husband would remarry with another girl. In the year 2010 itself she went to attend marriage ceremony of his brother thereafter no one came to bring her back and now she has learnt that her husband has married with another girl.

3. It is submitted by learned counsel for the petitioner that the wife was not ousted by the husband from the matrimonial home. The contents of the FIR itself speaks that opposite party no.2 herself went to her parents' home but did not return back. There is no allegation of committing cruelty or torture in connection with further demand of dowry. Moreover, the husband is paying maintenance to the wife though earlier the matter was sent to Mediation Centre but again the matter may be referred to Mediation Centre.

4. Learned counsel appearing on behalf of opposite party no.2 submits that there is no chance of further mediation. Earlier mediation was held by Mediation Centre in view of the second marriage and now there is no such requirement. The petitioner has married another girl and another case under Section 494 IPC lodged and police after investigation has submitted charge sheet in that case finding the case true. He further submits that allegation itself speaks of torturing opposite party no.2 against her husband in connection



with demand of dowry and the allegation is very specific.

5. Having considered rival submissions of both sides and on perusal of the records, it is apparent that allegations, as levelled in the FIR, do make out a *prima facie* case under Section 498A of IPC. There is specific allegation against the petitioner that he started torturing her for realizing further demand of dowry. The ouster from matrimonial home is not essential ingredient for constituting an offence under Section 498A of IPC. Moreover in another case filed under Section 494 IPC by the wife, police has submitted charge sheet in that case. So, in the backdrop of these facts, this Court does not find any ground for interfering with the order of cognizance dated 26.07.2013 hence finding no merit this application stands dismissed.

(Arun Kumar, J.)

S.Kumar/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	22.08.2017
Transmission Date	22.08.2017

