

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.50339 of 2013

Arising Out of PS.Case No. -209 Year- 2012 Thana -MANIGACHI District- DARBHANGA

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Sunil Jha @ Sunil Kumar S/o Yugeshwar Jha, Resident of Village + P.S. Jalle,
District- Darbhanga

.... Petitioner/s

Versus

1. The State of Bihar
2. Subhashni Devi, Wife of Sunil Jha, D/o Dhirendra Mishra Resident Of Village-
Makaranda, P.S.- Manigachi, District- Darbhanga.

.... Opposite Party/s

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Appearance:

For the Petitioner/s : Mr.

For the Opposite Party/s : Mr.

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CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR JHA

ORAL JUDGMENT

Date: 02-05-2017

Heard both sides.

The petitioner seeks quashing of the order dated 08.02.2013/11.02.2013 passed by the learned Chief Judicial Magistrate, Darbhanga by which the learned Chief Judicial Magistrate took cognizance under Sections 498A, 201 and 34 of the Indian Penal Code in Manigachi P.S. Case No. 209 of 2012.

On the written application of the informant, Manigachi P.S. Case No. 209 of 2012 was registered under Sections 498A, 307 and others sections of the Indian Penal Code. The police after investigation submitted a report under Section 173(2) of the Code of Criminal Procedure finding the case true under Sections 498A, 201



and 34 of the Indian Penal Code against the petitioner-husband.

Learned counsel for the petitioner submits that there is no material on record to take cognizance under Section 498A of the Indian Penal Code against the petitioner. Wife of the petitioner in fact subjected the petitioner to all sorts of torture. It is submitted that the petitioner earlier filed informatory petition in the court of Chief Judicial Magistrate being informatory petition no. 04 of 2009. Thereafter, the petitioner filed matrimonial suite no. 346 of 2010 in the court of Principal Judge, Family Court, Ranchi and the Principal Judge, Family Court, Ranchi vide judgment and decree dated 22.12.2011 dissolved the marriage of the petitioner with the informant ex-parte. The informant was mentally sick. It is submitted that the petitioner has annexed letters written by the informant and the letters show that the informant always used abusive and filthy language against the petitioner. Now the petitioner is not the husband of the informant and continuance of the case is sheer abuse of process of law and no offence is made out.

But from perusal of the F.I.R. itself, it appears that the informant (wife of the petitioner) made allegation against the petitioner that the petitioner subjected her to all sorts of physical and mental torture due to non-fulfillment of demand of dowry. The investigating officer submitted a report finding the case true under



Section 498A and other sections of the Indian Penal Code against the petitioner and thereupon the cognizance was taken. Learned counsel for the petitioner laid emphasis in support of his case that no offence is made out on the basis of annexures attached with the petition that the informant herself used abusive and filthy language and she has already been divorced, but on the fact, it cannot be said that no offence under Section 498A and other sections of the Indian Penal Code is made out. The defense version of the accused cannot be taken into consideration at the stage of taking cognizance. On the basis of accusation made by the informant and supported by the witnesses on behalf of the informant, the case is found true. There appears sufficient material to take cognizance under Section 498A and other sections of the Indian Penal Code against the petitioner.

Therefore, I do not find any illegality in the order taking cognizance. Accordingly, this quashing petition is dismissed as devoid of any merit.

(Prabhat Kumar Jha, J)

Mishra/-

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