

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.10296 of 2014

Arising Out of PS.Case No. -1689 Year- 2009 Thana -VAISALI COMPLAINT CASE District-
VAISHALI(HAJIPUR)

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Suresh Paswan S/o Nand Lal Paswan Resident of Village- Sakroli, P.O-
Ajijpurchak, P.S- Patepur, District- Samastipur.

.... Petitioner/s

Versus

1. The State of Bihar
2. Laxmi Devi W/o Maksudan Paswan resident of Harpur Bhindi, P.S-
Tajpur, Distt- Samastipur.

.... Opposite Party/s

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Appearance:

For the Petitioner/s : Mr. Sanjay Kumar Ghosarvey

For the Opposite Party/s : Mr. Ajay Kumar No. -I (APP)

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CORAM: HONOURABLE MR. JUSTICE ARUN KUMAR
ORAL ORDER

10 16-01-2017 This petition for quashing has been filed for setting aside the cognizance order dated 27.1.2010 passed by learned S.D.J.M., Hajipur in Complaint Case No. C1-1689 of 2009, Trial No. 1246 of 2013 whereby he has taken cognizance under Section 498A of the I.P.C. against the accused persons including the petitioner who happens to be the husband of the complainant.

Learned counsel appearing on behalf of the petitioner submits that allegation levelled in the complaint petition is patently absurd and cannot be believed. Moreover, there is no question of seeking further dowry and torturing to wife after ten years of marriage. It is also submitted that the complainant has re-married another person in 2011 and since then she is living with



her second husband and for this learned counsel has placed reliance on Annexure-4, the report of S.I., Patepur P.S. which was submitted on the petition of one Ram Lagan Das. The learned counsel submitted that Ram Lagan Das is the father of the complainant but he has not annexed the petition of Ram Lagan Das on which this report was submitted in order to know the content of the petition filed by the father of the complainant, learned counsel has also placed reliance on a *Panchnama*. He submitted that according to *Panchnama* the marriage between the two sides were dissolved. The *Panchnama* is dated 30.5.2009 and that the complaint was filed on 11.6.2009 after the *Panchnama*. The gist of argument of the learned counsel is that on account of the allegation being absurd and the complainant already married with another man the cognizance order is required to be quashed.

The learned counsel appearing on behalf of the State submitted that the allegation levelled in the complaint do make out a prima facie case under Section 498A IPC against the petitioner as the complainant in her statement given on solemn affirmation and four witnesses at the enquiry stage have supported the allegation and there is no clinching material on record to show that the complainant had married another person. However, none appeared on behalf of the O.P. No. 2 the complainant.



Considering the rival submissions of both sides I find that the allegations are not patently absurd in view of alleged allegation in the complaint and material on record i.e. prima facie evidence coming during enquiry. The report of the Police Officer, that is Annexure-4, annexed by the petitioner, does not show that any Police Officer had gone to the house of Makshudan Paswan with whom the complainant is said to have married. Moreover if so not properly verified, it remains a disputed question of fact which cannot be looked into at this stage.

So for the aforesaid reasons, I do not find any ground for interfering with the cognizance order, therefore, in view of the aforesaid discussion finding no merit in the quashing petition, it is dismissed accordingly.

(Arun Kumar, J)

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