

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No. 49550 of 2013

Arising out of P.S. Case No. - 1371 Year - 2012 Thana - BHOJPUR COMPLAINT CASE District - BHOJPUR

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Nagendra Narayan Tripathi @ Nagendra Tripathi, S/O Ravindra Nath Tripathi,
Resident of Tari Mohalla Arrah, P.S. - Arrah Town, District - Bhojpur

.... Petitioner

Versus

1. The State of Bihar
2. Netu Tripathi, W/O Nagendra Narayan Tripathi, D/O Late Vijay Kumar Choubey, R/O Village - Harigaon, P.S. - Jagdishpur, District - Bhojpur at Ara

.... Opposite Parties

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Appearance :

For the Petitioner : Mr. Naresh Dikshit, Advocate

For the Opposite Parties : Mr. Tapeswar Sharma, A.P.P.

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CORAM: HONOURABLE MR. JUSTICE BIRENDRA KUMAR

ORAL JUDGMENT

Date: 13-01-2017

Heard learned counsel for the petitioner and learned

Additional Public Prosecutor for the State.

2. Petitioner Nagendra Narayan Tripathi @ Nagendra

Tripathi is the husband of Opposite Parties No. 2 Netu Tripathi.

3. The petitioner has challenged the cognizance order dated 01.10.2012 passed in Trial No. 4627 of 2012 arising out of Complaint Case No. 1371(C) of 2012 wherein the learned court below has taken cognizance against the petitioner for offence under Section 498A of the Indian Penal Code. The impugned order reveals that the learned court below has not taken cognizance against other two accused, Ravindra Tripathi and Vimala Tripathi, arrayed in the complaint petition.

4. Prosecution case is that opposite party no. 2 was



married with the petitioner in June, 2009, thereafter there was demand of more dowry and torture for the same by the petitioner and on 30th June, 2012, the petitioner committed assault along with others and abused to opposite party no. 2 with threat to expel out of the house.

5. Submission of the petitioner is that the criminal proceeding is not sustainable for substantial justice because at the time of hearing of anticipatory bail application the informant had appeared and asked for permanent alimony whereas the husband was already paying monthly installment. Therefore, real grievance is for payment of permanent alimony. His next contention is that the petitioner had already filed a divorce case against opposite party no. 2 vide Hindu Marriage Petition No. 842 of 2012 before the court of learned Principal Judge, Karkardooma, Delhi and thereafter the present prosecution was filed. He next submits that thereafter a tendency has developed to opposite party no. 2 and her relatives to file one criminal case after another. The mother of opposite party no. 2 Savitri Kumari has also filed Jagdishpur Police Station Case No. 144 of 2012 against the petitioner for the alleged occurrence dated 01.06.2012.

6. Since, prima facie, offence is disclosed in the complaint petition and evidence of inquiry witnesses as mentioned in the impugned order, I do not find any merit in the submission of the



petitioner that criminal proceeding is fit to be quashed considering the probable defence of the petitioner that the present case was filed after filing of the divorce case by the petitioner. Similarly, other cases lodged by different family members relates to different offences committed on different dates and at a different places cannot be a ground to quash the present proceeding. The proposal for permanent alimony was for resolution of dispute and not to disbelieve the prosecution case.

7. In view of the aforesaid materials, I do not find any merit in this application, accordingly, it stands dismissed.

(Birendra Kumar, J.)

Kundan

AFR/NAFR	
CAV DATE	
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