

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.40255 of 2013

Arising Out of PS.Case No. -2398 Year- 2006 Thana -PURNIA COMPLAINT CASE District-
PURNIA

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Md. Shahid Khan, Son of Sultan Khan, R/O Mohalla-Darji Tola, Muradpur Lane,
Subjibagh, P.S.-Pirbahore, District-Patna

.... Petitioner/s

Versus

1. The State Of Bihar
2. Amma Khatoon, W/O Mahmood Alam, R/O Mohalla-Azad Nagar
(Madhopara), P.S.-Khajanchi, P.S.-Khajanchi Sahayak, District-Purnea

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. S.A.Alam, Advocate.

For the Opposite Party/s :

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CORAM: HONOURABLE MR. JUSTICE ARUN KUMAR

ORAL JUDGMENT

Date: 14-07-2017

Heard learned counsel for the parties.

2. Petitioner filed this quashing petition against order dated 07.12.2011 passed by learned Sessions Judge, Purnea in Cr. Rev. No. 90 of 2011 whereby he declined to interfere with the cognizance order dated 22.01.2011 passed in Complaint Case No. 2398 of 2006.

3. Petitioner is the son-in-law of the complainant and the allegation in the complaint, in brief, is that the husband of the complainant's daughter, the present petitioner, used to torture her for more dowry, so she had filed a complaint case i.e., Complaint Case No. 561 of 2001 under Section 498A of the Indian Penal Code and also filed a case for maintenance in the Family Court and the matter is pending there.



4. Allegation levelled with regard to present occurrence is that on 04.12.2006 at 8:15 P.M., the petitioner came to the house of complainant and started knocking the door thereafter breaking the door entered inside the house along with others and asked why she has kept his wife there and pushed her so she fell down on the ground thereafter he caught hold his wife. On alarm by the complainant and her daughter, he fled away taking Rs. 1,600/- from her hand bag and a chain of silver with him.

5. Learned counsel for the petitioner submits that complainant is the mother-in-law of the petitioner and was instrumental in getting the relationship strained in between husband and wife. However, another complaint case earlier lodged by the complainant against the petitioner under Section 498A of the Indian Penal Code has been quashed by this Court. He further submits that allegation of forcible entry in the house of the complainant as well as committing theft of money is false and fabricated. He submits that the petitioner has filed a police case against the complainant on 08.05.2016 so present complaint case was lodged by her only to put pressure upon the petitioner to withdraw the case lodged by him. Moreover, in the formant of complaint, the date of occurrence is mentioned as 12.12.2004 whereas in the narrative portion of the complaint, the date of occurrence is stated 04.12.2006 and it is not corrected till now, which also shows frivolity of the case filed by the



complainant. Learned counsel further submits that wife of the petitioner later on married with another man leading her conjugal life.

6. Having considered the rival submissions and on perusal of the record, it is apparent that earlier matrimonial relationship of the petitioner was strained with his wife (daughter of the complainant) and a series of litigations were going on in between them. The petitioner earlier had lodged an FIR against his mother-in-law on 08.05.2006, alleging forcibly taking away her daughter (petitioner's wife) to her home and thereafter this present complaint has been filed. So the present complaint filed by the complainant appears malicious in nature in order to take personal vengeance as earlier petitioner had filed a police case against her only a few month back, hence, continuation of further criminal proceeding in the matter in the court below would be abuse of process of court. Therefore, entire criminal proceeding in Complaint Case No. 2398 of 2006 including order dated 07.12.2011 passed in Cr. Rev. No. 90 of 2011 is set aside. The petition stands allowed.

(Arun Kumar, J)

Sujit/-

AFR/NAFR	NAFR
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