

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.50747 of 2014

Arising Out of PS.Case No. -1824 Year- 2013 Thana -SITAMARHI COMPLAINT CASE District-
SITAMARHI

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Rakesh Tiwary Son of Lalan Tiwary Resident of Quarter No. CD- 735, Sector-2,
H. E. C. Colony, Police Station - Dhurwa, District- Ranchi (Jharkhand).

.... Petitioner/s

Versus

1. The State of Bihar

2. Neha Kumari, Daughter of Umesh Tiwary, Wife of Vijai Kumar Pandey @Vijai
Kumar Resident of Mohalla- Court Bazar, Ward No. 16, Police Station and District
- Sitamarhi (Bihar)

.... Opposite Party/s

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Appearance:

For the Petitioner/s : Mr. Bindhyachal Singh and
Mr. Sachin Kumar, Advocates.

For the State: Mr. G.S. Gupta, A.P.P.

For the Opposite Party/s : Ms. Madhubala Verma, Advocate.

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CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD

ORAL JUDGMENT

Date: 13-10-2017

Heard learned counsel for the petitioner and learned
counsel representing the complainant – opposite party no. 2 as also
learned A.P.P. for the State.

2. The petitioner is seeking quashing of the order dated
14.03.2014 passed in Complaint Case No. 1824/2013 (Trial No.
3381/2014) by the learned Sub Divisional Judicial Magistrate,
Sitamarhi by which the learned Sub Divisional Judicial Magistrate has
taken cognizance of the offence under Section 498A IPC read with



Section 4 of the Dowry Prohibition Act.

3. Learned counsel for the petitioner, at the outset, submits that this petitioner is Bahnoi (husband of the younger sister of the husband of the complainant – opposite party no. 2). According to the learned counsel, a bare perusal of the complaint petition giving rise to Complaint Case No. 1824/2013 would show that so far as the present petitioner is concerned there is no specific allegation of committing any act of cruelty or torture against the complainant – opposite party no. 2. The whole allegation is about participation of this petitioner at the time of negotiation of the marriage where it is alleged that this petitioner had accompanied Vijay Kumar Pandey (husband) on 25.12.2011 to the house of the complainant for purpose of meeting her in connection with marriage. Learned counsel submits that in the complaint petition itself it is stated that for purpose of expenses in the marriage the father of the complainant had deposited a sum of Rs. 4,00,000/- in the A/C of this petitioner. Submission is that once marriage was solemnized on 18.04.2012 thereafter there is no allegation of commission of any act or omission by this petitioner which may constitute an offence either under Section 498A or Section 3/4 of the Dowry Prohibition Act.

4. The allegation in the latter part of the complaint, which deals with the post-marriage demand of dowry and torture meted out



to the complainant, specifically talks about the act of the husband of the complainant. It is the submission of the learned counsel representing the petitioner that the petitioner has been implicated in the present case only because of his close relationship with the husband of the complainant and for his participation in the negotiation at the time of marriage.

5. Learned counsel representing the complainant – opposite party no. 2 accepts the factual position as appearing from the complaint petition which have been noted here-in-above. It is in fact crystal clear from the complaint itself that there was no demand of dowry as such by this petitioner and, according to the case of the complainant itself, the amount of Rs. 4,00,000/- was deposited towards expenses in marriage which will not attract the provisions of Section 3 / 4 of the Dowry prohibition Act.

6. Since there is no allegation at all of committing any act or omission which may constitute an offence under Section 498A I.P.C., in the opinion of this Court, the learned Chief Judicial Magistrate, while taking cognizance of the offence under Section 498A IPC read with Section 3/4 of the Dowry Prohibition Act did not apply himself correctly in issuing summons to this petitioner.

7. The impugned order issuing summons to the present petitioner is, therefore, fit to be quashed and is, accordingly, hereby



quashed in respect of this petitioner.

6. The application is allowed to the extent indicated here-
in-above.

(Rajeev Ranjan Prasad, J)

Dilip, AR

AFR/NAFR	NAFR
CAV DATE	N/A
Uploading Date	13.10.2017
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