

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.31485 of 2014

Arising Out of PS.Case No. -25 Year- 2008 Thana -COMPLAINT CASE District- JAMUI

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Rajnandan Sharma son of Late Janki Singh R/o village - Kahardih, P.S. Khaira, District - Jamui

.... Petitioner

Versus

1. The State of Bihar

2. Nilu Devi W/o Rajnandan Sharma R/o village - Kahardih, P.S. Khaira, District - Jamui

.... Opposite Party

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Appearance :

For the Petitioner/s : Mr. Bipin Kumar, Advocate

For the Opposite Party/s : Mr. Abhay Kumar 1, Advocate

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CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL JUDGMENT

Date: 11-10-2017

Heard learned counsel for the petitioner and
learned Additional Public Prosecutor for the State.

The petitioner is seeking quashing of the order dated 11.08.2009 passed by learned Chief Judicial Magistrate, Jamui in connection with Complaint Case No. 25C of 2008 by which learned Chief Judicial Magistrate took cognizance of the offences under Section 498A of the Indian Penal Code and issued summon against the petitioner and other accused persons.

The petitioner is the husband and there are serious allegations of committing acts of torture against his



wife. The allegations made in the complaint petitioner have been supported by the inquiry witnesses as well. What is surprising is the conduct of the petitioner who is said to be an employee in the Railway Protection Force, after summon issued by the court of learned Chief Judicial Magistrate, Jamui, the other four accused have surrendered and got bail. This petitioner filed application for Anticipatory Bail up to this court vide Cr. Misc. No. 33424/2011 which was rejected vide order dated 29.09.2011 with the following observations :-

“The petitioner is directed to appear before the court below on 28.10.2011 and the court below shall enlarge him to regular bail with appropriate bail bonds, sureties and conditions with an undertaking that the petitioner shall keep his wife with full security, dignity and honour. The complainant would be at liberty to file a petition before the court below for cancellation of his bail bond in case he fails to provide her with full security, dignity and honour and the court concerned shall take appropriate action including cancelling his bail and taking the petitioner in custody.”

The petitioner did not surrender in the court below. Vide order dated 30.04.2012 passed by learned court below when even after issuance of the non-bailable warrant



he did not surrender, process under Section 82 Cr.P.C. was issued against him.

It appears that after the order dated 30.04.012 was passed by the learned Chief Judicial Magistrate, Jamui, the petitioner moved this Court under Section 482 Cr.P.C. for quashing of the order taking cognizance vide Cr. Misc. No. 28641/2012, in which an interim order that no coercive steps shall be taken against the petitioner was passed, by virtue of the said interim order, the petitioner, even though further proceeding of the court below was not stayed, did not appear to facilitate further progress in the trial. The said Cr. Misc. No. 28641/2012 was later on dismissed for default on 12.12.2013. The interim order protecting the petitioner was also vacated. Thereafter, an application for restoration was filed which was dismissed vide order dated 07.05.2014 giving liberty to the petitioner to file a fresh quashing application in the same subject matter after bringing on record on the subsequent developments which might have taken place after the date of order taking cognizance, because the court was of the view that the order taking cognizance was challenged after a substantial period.



Because of the aforesaid liberty, the petitioner has filed once again the present application. In course of perusal of the records, it was found that the petitioner has not enclosed the order-sheets for the period after 04.03.2010 and before 01.03.2013. Perhaps to avoid attention of this Court that the petitioner had earlier not surrender in the court below and process under Section 83 Cr.P.C. was also issued against him. Learned counsel has in course of hearing when called upon to produce the order-sheets of aforesaid period, made available the same from which the complete development could be noted above.

This being the position. The conscience of the court is disturbed to a great extent because the mode and manner in which the petitioner has been able to escape the process of law is likely to take away the confidence of a person in the society in the administration of justice.

Finding that there are specific allegations against the petitioner which are duly supported by the witnesses, this Court is not inclined to interfere with the order taking cognizance. The learned Chief Judicial Magistrate, Jamui shall proceed with the matter and is directed to ensure execution



of the non-bailable warrant of arrest and process in accordance with law including by sending the process to the office of the employer of the present petitioner. Learned counsel for the petitioner informs this court that the petitioner is presently posted at Jamalpur Workshop in the District of Munger.

This application is disposed of with the above observation and direction.

(Rajeev Ranjan Prasad, J.)

Rajeev/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	11.10.2017
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