

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.50237 of 2014

Arising Out of PS. Case No.-1517 Year-2012 Thana- VAISALI COMPLAINT CASE
District- Vaishali

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Randhir Paswan son of Prashad Paswan, resident of village- Mahua Singhrail,
P.S.- Mahua, District- Vaishali

... .. Petitioner/s

Versus

1. The State of Bihar
2. Ranju Devi wife of Randhir Paswan, resident of village- Mahua Singhrail,
P.S.- Mahua, District- Vaishali, Naihar address- daughter of Vishwanath
Paswan, resident of village- Mansurpur, P.S.- Bidupur, District- Vaishali
3. Kedar Paswan, son of Nandlal Paswan, resident of mohalla- Hela Bazar
Hajipur Ward No. 12, P.S.- Nagar Hajipur, District- Vaishali

... .. Opposite Party/s

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Appearance :

For the Petitioner/s	:	Mr. Bela Singh, Adv
For the State	:	Mr. MD.FAHMUDDIN (APP)

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CORAM: HONOURABLE MR. JUSTICE S. KUMAR
ORAL JUDGMENT

Date : 13-12-2017

Heard learned counsel for the petitioner and learned
counsel for the State.

In spite of valid service of notice, no one has
appeared on behalf of O.P. No. 2.

This petition under Section 482 of the Cr.P.C has been
filed for quashing the order dated 26.02.2013 passed by Sub
Divisional Judicial Magistrate, Vaishali in Complaint Case No.
1517 of 2012(Tr. No. 3048 of 2013), by which cognizance of the
offence under Sections 498A and 323 of the Indian Penal Code



and Section 3/4 of the Dowry Prohibition Act, has been taken against the petitioner.

Briefly stated, the facts of the present case is that complainant-opposite party no. 2 Ranju Devi, filed a complaint before the Chief Judicial Magistrate, Vaishali against the petitioner and his family members alleging therein that the marriage between them was solemnized on 10.06.2009 as per hindu rites and customs. Jewellery, clothes and cash of Rs. 1,50,000/- was gifted by her father but after few days of her marriage the petitioner and his family members demanded Rs. 50,000/- cash and one Motorcycle as dowry and due to non fulfillment of dowry demand, they started torturing her. With such allegation the complaint case was filed by complainant-opposite party no. 2 in the court below.

On the basis of such complaint, complainant-opposite party no. 2 was examined on S.A. by the court below and in support of her complaint case, enquiry witnesses were also examined by the court below and on the basis of S.A. of complainant-opposite party no. 2 and enquiry witnesses, the court below found *prima facie* case to be made out against the accused-petitioner and took cognizance of the offence under Section 498A and 323 of the IPC and Section 3/4 of Dowry



Prohibition Act and issued summons for his appearance to face the trial.

It has been contended by the learned counsel for the petitioner that the petitioner has been falsely implicated in this case and the story of torture and harassment is concocted and false. It has been further contended that complainant-opposite party no. 2 had deserted the husband-petitioner. The husband-petitioner had himself filed a case for restitution of conjugal rights under Section 9 of the Hindu Marriage Act being Restitution Case No. 127 of 2012 in the court of Principal Judge, Family Court, Vaishali and thereafter this false and concocted case has been filed as an excuse for not residing in her matrimonial home. It has further been stated that complainant-opposite party no. 2 Ranju Devi, had solemnized second marriage with one Kedar Paswan and both are living as a husband and wife and a son has also born out of the said wedlock.

I have gone through the contents of complaint petition and materials available on record, I find that no allegation of any specific overt act has been alleged against the petitioner. All the allegations are general and omnibus in nature and even after proper service of notice no one has chosen to



appear on behalf of the complainant-opposite party no. 2 and also in view of the fact that petitioner had filed an application for restitution of conjugal rights no offence under Section 498A of the IPC and Section 3/4 of the Dowry Prohibition Act is made out, and Section 323 of the IPC is super addition, as such the order taking cognizance dated 26.02.2013 is hereby quashed.

The petition is allowed.

(S. Kumar, J)

ranjan/-

AFR/NAFR	NAFR
CAV DATE	N.A.
Uploading Date	18.12.2017
Transmission Date	18.12.2017

