

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.9201 of 2014

Arising Out of PS.Case No. -334 Year- 2013 Thana -NALANDA COMPLAINT CASE District-
NALANDA (BIHARSHARIFF)

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Arun Kumar Sinha @ Ramji Prasad Son Of Late Kunwar Mahto, resident of
Village - Gogari, P.O.- Hargawan, P.S.- Manpur, District - Nalanda At Present
Resident of Mohalla - Mahalpur, Ward No. 10, House No. 72, behind of Parbati
Cold Stores Biharsharif, P.S.- Sadar (Biharsharif), District - Nalanda

.... Petitioner

Versus

1. The State of Bihar.
2. Sugia Devi @ Sunita Devi Wife of Arun Kumar Sinha @ Ramji Prasad,
daughter of Late Budhlal Mahato, resident of village - Gogri Par, P.O.- Hargaon,
P.S. Manpur, District - Nalanda

.... Opposite Parties

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Appearance :

For the Petitioner : Mr. Devendra Kumar Singh, Advocate
For the State : Mr. Anant Kumar, A.P.P.

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CORAM: HONOURABLE MR. JUSTICE ARUN KUMAR
ORAL JUDGMENT

Date: 25-01-2017

Heard learned counsel for the petitioner as well as
learned counsel appearing on behalf of the opposite party no.2-the
complainant and the Additional Public Prosecutor for the State.

This application has been filed for quashing the order
taking cognizance of the offence under Sections 323, 498A and 504 of
the Indian Penal Code against the petitioners as well as issuance of
process dated 23.5.2013 passed by the learned court below. This order
is challenged on the ground that prima facie no ingredient of offence
under Section 498A and other Sections of the I.P.C. demanding dowry
or torture is made out.



Learned counsel for the petitioner, who is the husband of the complainant, submits that the marriage of the petitioner was solemnized with the complainant in the year 1970; not less than 43 years back since filing of complaint petition a son was also born out of this wedlock and the allegation that of making continuous demand of Rs.3,00,000/- by the husband for last forty three years is patently absurd. Another allegation is that the petitioner has got illicit relationship with a married woman; when she objected then the husband used to assault her. It is further submitted that neither name of the lady is mentioned nor there is allegation that this petitioner has married that lady.

Learned counsel appearing on behalf of opposite party no.2 submits that the petitioner has married a lady and this fact was admitted by him in mediation proceeding. However, there is no any mediation report on the record indicating such admission; the report only speaks of failure of mediation.

I find substance in the submission of learned counsel for the petitioner. The allegation in the complaint is that the complainant was married with the petitioner in the year 1970 and a son was also born out of the wedlock further it is alleged that since solemnization of marriage persisting with demand of Rs.3,00,000/- but is it admitted position that the present complaint was filed after forty three years,



which itself makes the present case absurd and improbable. In the complaint, there is no any averment that when last demand was made by the petitioner. Another allegation that the petitioner has had illicit relationship with a married lady also appears without any substance not having any probative value as neither name of the lady nor her address is mentioned. Therefore, considering the entire allegation levelled in the complaint petition filed after long forty three years of marriage alleging demand of dowry and torture make the case inherently improbable; so finding no prima facie case under Sections 323, 498(A) and 504 of the Indian Penal code, the impugned order dated 23.5.2013 taking cognizance of the aforesaid offence is quashed.

In the result, this quashing application is allowed.

(Arun Kumar, J)

N.H./-

AFR/NAFR	
CAV DATE	
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