

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.38058 of 2014

Arising Out of PS.Case No. -4 Year- 2013 Thana -MAHILA P.S. District- MUNGER

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Deoraj Paswan, son of Late Ram Prakash Paswan, resident of village Adampur,
Police Station Kajara (Suryagadha), District - Lakhisarai.

.... Petitioner/s

Versus

1. The State of Bihar.
2. Soni Kumari, daughter of Sri Bhola Paswan, resident of Rampur Quarter No.
451/GH, Police Station Jamalpur, District - Munger.

... Opposite Party/s

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Appearance :

For the Petitioner/s :

For the Opposite Party/s :

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CORAM: HONOURABLE MR. JUSTICE ARUN KUMAR

ORAL JUDGMENT

Date: 07-08-2017

Heard learned counsel for the petitioner, learned counsel
for the State and learned counsel for the O.P. No. 2.

2. The petitioner, by filing this application, under Section
482 of the Cr.P.C., 1973 seeks quashing of the entire criminal
proceeding including cognizance order dated 14.06.2013 passed by
the Chief Judicial Magistrate, Munger in Mahila P.S.Case No. 04 of
2013, whereby he has taken cognizance of offence under Sections
323, 498A and 506/34 of the Indian Penal Code.

3. It is submitted by learned counsel for the petitioner that
petitioner is the elder brother of the husband of the O.P. No. 2 and he
has had no concern with the matrimonial affairs of the complainant,
moreover their marriage was solemnized way back in the year 1996



and the present FIR was lodged in the year 2013, having no allegation that at the time of marriage and just after marriage any demand of dowry was made rather the said allegation is levelled approximately after lapse of 17 years of the marriage. Going through the contents of the FIR, it appears that the husband and others used to taunt her on account of bearing four female child and there is no specific allegation, in particular, against this petitioner. He further placed reliance in the case of ***Pritam Ashok Sadaphule & Ors. Vs. State of Maharashtra & Ors.*** reported in (2015) 11 SCC 769.

4. Learned counsel appearing on behalf of the O.P. No. 2 supports the impugned order by submitting that *prima facie* case against all the accused persons including the petitioner is made out.

5. Having considered rival submissions and on perusal of record, it appears that O.P. No. 2 was married with her husband Shiv Narain Paswan in the year 1996. The petitioner is said to be the elder brother of her husband. On going through the whole contents of the FIR as well as considering the allegation in totality, the allegation against the petitioner appears to be omnibus and general in nature. Moreover, allegation of demand of dowry is levelled by the O.P. No. 2 after lapse of almost 17 years of marriage. The allegation of demand of dowry appears specific against the husband. In the case of ***Pritam Ashok Sadaphule*** (supra) the Hon'ble Supreme Court has held that



allegation being vague in the FIR and subsequent charge sheet against parents and sister, the same need to be quashed. Applying same principle in the case at hand, I find the allegation against the petitioner vague and omnibus as such continuance of criminal proceeding against the petitioner would be an abuse of the process of the court.

6. So the entire criminal proceeding including the cognizance order dated 14.06.2013 passed in Mahila P.S.Case No. 04 of 2013 by the learned Chief Judicial Magistrate, Munger with respect to this petitioner is hereby quashed. The application stands allowed.

(Arun Kumar, J)

Sujit/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	19.08.2017
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