

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.35325 of 2014

Arising Out of PS.Case No. -55 Year- 2011 Thana -VIJAYPUR District- GOPALGANJ

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Dilip Yadav son of Ramadhar Yadav Resident of Village- Kutiya, P.S.- Vijaipur,
District- Gopalganj

.... Petitioner/s

Versus

1. The State of Bihar
2. Manju Devi, wife of Dilip Yadav daughter of Keshav Yadav Resident of Village- Kutiya, P.S.- Vijaipur, District- Gopalganj. At present resident of Village- Tatayar Khurd, P.S.- Khampur, District- Deoriya (U.P.)

.... Opposite Party/s

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Appearance:

For the Petitioner/s : Mr. Lokesh Kumar Singh, Advocate.

For the Opposite Party/s : Mr. Fahimuddin, APP.

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CORAM: HONOURABLE MR. JUSTICE PRAKASH CHANDRA JAISWAL

ORAL JUDGMENT

Date: 31-07-2017

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

2. This application under Section 482 of the Code of Criminal Procedure has been filed for quashing the order dated 21.02.2012 passed by learned Sub-Divisional Judicial Magistrate, Gopalganj in Trial No. 3656 of 2014 arising out of Vijaipur P.S. Case No. 55 of 2011, whereby the learned Magistrate has taken cognizance of the offence under Sections 323, 498A and 494/34 of the Indian Penal Code against the petitioner and other accused persons.

3. It is submitted by learned counsel for the petitioner



that in the entire complaint petition, there is no allegation of demand of dowry against the petitioner. Hence, offence under Section 498A of the Indian Penal Code is not made out. It is further submitted by learned counsel for the petitioner that regarding the same demand of dowry, another case has been filed by the opposite party no.2 at Deoria which is still pending. Hence, this case is not maintainable on this score alone.

4. On the other hand, it is submitted by learned counsel for opposite party no.2 that the petitioner happens to be the husband of the opposite party no.2 and there is specific allegation of demand of dowry of Rs. 2,00,000/- for doing business by him and also subjecting the opposite party no.2 to various sorts of torture over the said demand and driving her out of her marital house snatching her belongings and thrashing her. Hence, prima facie case is made out against the petitioner. It is further submitted that there is no bar in filing another complaint petition under Section 498A and other allied sections of the Indian Penal Code for the offence committed on different occasions. Moreover, quashing petition filed by the father-in-law, mother-in-law and brother-in-law of the opposite party no.2 has been dismissed by this Court.

5. From perusal of the record, it appears that Vijaipur P.S. Case No. 55 of 2011 has been instituted under Sections 498A,



323 and 494/34 of the Indian Penal Code and Section 3/4 of the Dowry Prohibition Act on the basis of the complaint petition filed by Opposite party No.2, namely, Manju Devi, with allegation in succinct that her marriage was performed with the petitioner on 30.05.2006 and after that she went to her marital house and lived there happily for two months. Thereafter, the petitioner started demanding Rs. 2,00,000/- for doing business and her in-laws also endorsed the aforesaid demand. But on failure to cough up the demand, they subjected her to various sorts of torture and drove her out of her marital house. However, they took her back following the Panchayati, but again expelled her from her marital house thrashing her and snatching her belongings. The petitioner has also performed second marriage at Delhi.

6. On perusing the chargesheet and the case diary and finding prima facie case under Sections 323, 498A and 494/34 of the Indian Penal Code against the petitioner and other accused persons, learned Magistrate has taken cognizance of the offence against the petitioners and others vide impugned order.

7. From perusal of the complaint petition, it appears that the petitioner happens to be the husband of the opposite party no.2 and there is specific allegation against the petitioner regarding demand of Rs. 2,00,000/- for doing business and subjecting her to



various sorts of torture and performing second marriage with some other lady and driving her out of her marital house snatching her belongings in connivance of his family members. Thus, prima facie case appears to be made out against the petitioner and others under aforesaid sections. Though from perusal of the Annexure-2, it appears that opposite party no.2 has filed another case under Section 498A and allied sections of the Indian Penal Code and Section 3/4 of the Dowry Prohibition Act against the petitioner and others besides the case under hand with the allegation, inter alia, of demand of Rs. 2,00,000/- and marshal vehicle in dowry at Deoria but in my considered opinion, filing of another complaint petition under Section 498A of the Indian Penal Code is no bar when the complainant is subjected to cruelty and torture over the dowry demand on different occasions.

9. In the facts and circumstances of the case, I do not find any illegality in the impugned order and any merit and substance in the present petition. Accordingly, this quashing petition is dismissed.

(Prakash Chandra Jaiswal, J)

Mishra/-

AFR/NAFR	N.A.F.R.
CAV DATE	N.A.
Uploading Date	04.08.2017
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