

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.20037 of 2016

Arising Out of PS.Case No. -916 Year- 2015 Thana -GAYA COMPLAINT CASE District- GAYA

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Firoze Anwar @ Feroze Anwar S/o late Anwarul Haque R/o Mohalla- -
Moharrampur, Bakarganj, P.S.- Pirbahore, Distt -Patna.

.... Petitioner

Versus

1. The State of Bihar

2. Shabian Azhar D/o late Abu Azhar R/o Mohalla- Sibli Colony, New Karimganj,
PS- Civil Line, Distt- Gaya.

.... Opposite Parties

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Appearance :

For the Petitioner/s : Mr. Mohammad Sufyan, Advocate

For the Opposite Party/s : Mr. Amrendra Prasad, APP

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CORAM: HONOURABLE MR. JUSTICE ASHWANI KUMAR SINGH

ORAL JUDGMENT

Date: 16-04-2018

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

2. This application under Section 482 of the Code of
Criminal Procedure (for short 'Cr. P.C.') has been filed by the
petitioner for quashing the order dated 04.02.2016 passed by the
learned Sub Divisional Judicial Magistrate, Gaya in connection with
Complaint Case No.916 of 2015 by which the petitioner has been
summoned to face the prosecution for the offences punishable under
Sections 498A of the Indian Penal Code and Section 4 of the Dowry



Prohibition Act.

3. It is submitted by the learned counsel for the petitioner that the complaint had been instituted by the complainant-opposite party no.2 with ulterior motive. He submitted that even before the lodging of the complaint, the petitioner had divorced the opposite party no.2 by pronouncing 'talak' three times on three different dates. He submitted that just in order to coerce and black mail the petitioner, a concocted and fabricated allegation have been made.

4. On the other hand, learned counsel appearing for the opposite party no.2 submitted that the defence taken by the petitioner is totally misconceived. He submitted that the complainant is not a divorcee and being wife of the complainant she had instituted the case because of the fact that after marriage when she visited her matrimonial home, she was subjected to cruelty for non-fulfilment of dowry. The petitioner and his relatives started pressurizing her to bring Rs.20 lakhs for purchasing a flat at Patna. She was compelled to hand over her salary to the petitioner and in four years of marriage, she has given more than Rs. 4 lakhs to her husband and in-laws under threat and coercion. He submitted that the complainant has fully supported the allegations made in the



complaint in her statement made on oath and three witnesses examined on behalf of the complainant have also supported the case of the complainant in course of inquiry conducted under Section 202 of the Cr. P.C. He submitted that the conduct of the petitioner can also be appreciated from the fact that despite rejection of his application of pre-arrest bail by the Sessions Court, this Court and the Apex Court, he has not appeared before the court below after the issuance of summons.

5. I have heard learned counsel for the parties and perused the record.

6. From the allegations made in the complaint, a cognizable offence punishable under Section 498A of the Indian Penal Code and Section 4 of the Dowry Prohibition Act is made out. On perusal of the statement of complainant recorded under Section 200 of the Cr. P.C. and the statements of witnesses recorded under Section 202 of the Cr. P.C., I find that the complainant and her witnesses have fully supported the allegations made in the complaint. In that view of the matter, I see no illegality in the impugned order passed by the court below. So far as the defence taken by the petitioner is concerned, it can be seen by the court at appropriate stage in course of trial.



7. Accordingly, the application being devoid of any merit, is dismissed.

(Ashwani Kumar Singh, J.)

Sanjeet/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	20.04.2018
Transmission Date	20.04.2018

