

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.1163 of 2016

Arising Out of PS.Case No. -257 Year- 2015 Thana -PATNA COMPLAINT CASE District-
PATNA

=====

Sanjeev Kumar, son of Agni Kumar Singh, r/o village Mahendrapur, P.S. Nayagaown, Distt. Begusarai, presently residing in the quarter No. D-2 15/ in I.O.C.L. Colony, Township of Barauni Refinery, P.S. Begusarai Town, Distt. Begusarai.

.... Petitioner/s

Versus

1. The State of Bihar
2. Anamika Kumari, daughter of Brij Nandan Prasad Singh, r/o village Baikath Pur (Kashaba Tola), P.S. Khusrupur, Distt. Patna.

.... Opposite Party/s

=====

Appearance :

For the Petitioner/s : Mr. Shubhesh Pandey, Advocate.

For the Opposite Party/s : Mr. Abhay Kumar 1, A.P.P.

=====

CORAM: HONOURABLE MR. JUSTICE SANJAY PRIYA

ORAL JUDGMENT

Date: 14-09-2018

1. This application under Section 482 of the Code of Criminal Procedure has been filed for quashing the order dated 23.11.2015 passed by learned Sub Divisional Judicial Magistrate, Patna City, in Complaint Case No. 257 of 2015 by which the learned Magistrate after holding enquiry has found *prima facie* case against the petitioner and other accused persons for the offences under Section 498A of the Indian Penal Code.

2. It is alleged in the complaint petition that complainant was married with younger brother of petitioner namely, Rajeev Kumar on 20.11.2009. In the marriage gifts valued at Rs.25,00,000/- including cash of Rs.20,00,000/- was given. After



marriage the complainant went to her *sasural* and lived there for a short period happily. She was blessed with a female child. Thereafter, the husband of the complainant started demanding flat in Delhi, and on non-fulfillment of aforesaid demand, the accused persons started abusing and torturing the complainant and attempted to set her on fire by pouring kerosene oil on her person. The father of complainant went to Delhi to pacify the matter but he failed to do so. Ultimately, the accused persons ousted the complainant from her matrimonial house. Thereafter, father of the complainant took her with him.

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

4. Notice issued to the opposite party No. 2 has been validly served and she has appeared by filing a Vakalatnama, but today during course of hearing, none appeared on her behalf.

5. Counsel for the petitioner has submitted that petitioner is elder brother of husband of the complainant. There is no allegation of any specific overt act against the petitioner either in the complaint petition or in the S.A. of the complainant. It has further been submitted that petitioner is employee in Indian Oil Corporation and is living separate from the husband of the complainant.

6. From perusal of the complaint petition and also S.A. of the complainant which has been enclosed as Annexure-2, this



Court finds that there is no allegation of any specific overt act against the petitioner. The petitioner is elder brother of husband of the complainant.

7. In such circumstances, the impugned order with regard to the petitioner is not in accordance with law. The continuance of criminal proceeding against the petitioner will only amount to harassment to the petitioner.

8. Therefore, the impugned order dated 23.11.2015 passed by learned Sub Divisional Judicial Magistrate, Patna City, in Complaint Case No. 257 of 2015 along with the entire Criminal Proceeding with regard to the petitioner, is hereby quashed.

9. This Criminal Miscellaneous application is accordingly allowed.

(Sanjay Priya, J)

S.Ali/-

AFR/NAFR	AFR
CAV DATE	N.A.
Uploading Date	24/09/2018
Transmission Date	24/09/2018

