

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.50798 of 2016

Arising Out of PS.Case No. -168 Year- 2014 Thana -NARHAT District- NAWADA

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Zainul Abedin son of Nathun Mian, Resident of Village- Kopin, P.S.- Narhat
(Sitamarhi), District Nawadah.

.... Petitioner/s

Versus

1. The State of Bihar
2. Md. Israil son of Md. Kalimuddin, Resident of Village & P.O. -Chamautha,
P.S.- Rajauli, District Nawadah.

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Md. Fazal Rahman, Advocate
: Mr. Anisur Rahman, Advocate
For the State : None

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CORAM: HONOURABLE MR. JUSTICE ASHWANI KUMAR SINGH
ORAL JUDGMENT
Date: 29-01-2018

Heard learned counsel for the petitioner. Despite repeated calls, no body appears on behalf of the State.

2. This application under Section 482 of the Code of Criminal Procedure (for short 'the Cr.P.C.') has been filed for quashing the order dated 08.09.2016 passed in Narhat (Sitamarhi) P.S. Case No.168 of 2014 by the learned Additional Chief Judicial Magistrate, Nawadah in which after submission of the police report under Section 173(2) of the Cr.P.C. cognizance has been taken for the offences punishable under Sections 498A, 343, 323 and 504 read with Section 34 of the Indian Penal Code (for short 'the I.P.C.') against the petitioner and others.



3. According to the prosecution case, the daughter of the informant namely, Sitara Khatoon was married to the son of the petitioner on 21.10.2013 and since then she was being subjected to cruelty in her matrimonial home by the petitioner and others for non-fulfillment of demand of dowry.

4. A vivid description has been given in the first information report (for short 'the FIR') regarding the manner in which the victim was being subjected to cruelty in her matrimonial home for which she had earlier instituted Narhat (Sitamarhi) P.S. Case No.116 of 2014 on 22.07.2014 under Sections 498A of the I.P.C. and Sections 3 and 4 of the Dowry Prohibition Act. In the said case on the basis of compromise the accused persons were granted bail as they had undertaken that the daughter of the informant would be kept with dignity and honour in her matrimonial home. It is stated that thereafter the daughter of the informant again went to her matrimonial home and only after 3-4 days the petitioner and others started subjecting her to cruelty. It is alleged that not only the daughter of the informant was being subjected to cruelty, when wife of the informant went to persuade them not to commit atrocities upon her, she was also abused and assaulted and thereafter the wife and the daughter of the informant were confined in a room for three days and during that period they were not provided with food and water and they could be



rescued only after the police came and took them to the police station.

5. After institution of the FIR, the police investigated the case and, on completion of investigation, submitted charge-sheet against the petitioner holding the accusation to be true.

6. In course of investigation several witnesses came forward to make statement under Section 161(3) of the Cr.P.C. supporting the allegations made in the FIR.

7. The learned Magistrate upon consideration of the materials collected in course of investigation, the police report submitted under Section 173(2) of the Cr.P.C. and after hearing the parties came to a conclusion that there is ground for presuming that the petitioner and others have committed the offence and, thus, dismissed the application filed on behalf of the petitioner under Section 239 of the Cr.P.C. vide order dated 08.09.2016.

8. Assailing the aforesaid order dated 08.09.2016, learned counsel for the petitioner submitted that the entire allegations made in the FIR are false. The police did not conduct the investigation in a fair and impartial manner and a collusive police report was submitted before the court on the basis of which the learned Magistrate took cognizance of the offence and these vital aspects were ignored by the learned Magistrate while deciding the application filed under Section 239 of the Cr.P.C..



9. Having heard learned counsel for the petitioner and perused the materials available on record, I find no substance in the submissions made before the court. The defence taken by the petitioner can be seen by the court in course of trial and not at any preliminary stage. As noted above, there are sufficient materials on the basis of which the Magistrate concluded that there is ground for presuming that the petitioner and others have committed the offence.

10. In view of the discussions made above, the application, being devoid of any merit, is dismissed.

(Ashwani Kumar Singh, J)

Md.S./-

AFR/NAFR	NAFR
CAV DATE	N/A
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