

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Revision No.323 of 2018

Arising Out of PS. Case No.-1012 Year-2012 Thana- EAST CHAMPARAN COMPLAINT
District- East Champaran

Dr. Shyam Sunder Prasad @ Madan Raj, Son of Rajendra Prasad, Resident
of Near N.H. 28, Mathiya Zirat Motihari, Motihari, District- East Champaran.

... .. Petitioner/s

Versus

1. The State of Bihar.
2. Sunita Devi, Daughter of Rameshwar Prasad, resident of village- Rajendra Nagar, P.S. Chhatauni, District- East Champaran.

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr. Kumar Uday Singh
For the Respondent/s : Mr. Sri Sunil Kumar Pandey

CORAM: HONOURABLE MR. JUSTICE VINOD KUMAR SINHA
ORAL ORDER

3 04-12-2018 This revision application is directed against the order dated 6.2.2018 passed by the learned ACJM-14, Motihari passed in Complaint Case No.1012 of 2012, Tr. No.198 of 2018 whereby and whereunder he has rejected two petitions dated 22.9.2017 and 22.11.2017 filed by the petitioner under Section 245 of the Cr.P.C. for discharge of the petitioner in this case

The case in short is that the O.P.No.2 filed Complaint Case No.1012 of 2012 before the learned CJM, East Champaran, Motihari against the petitioner and the other accused persons, stating that she is married wife of the petitioner and after marriage she had a daughter also but the accused persons including the petitioner did not even care for



the daughter and in connivance with the other accused persons stopped giving them food. It is also alleged that regarding this she made complaint to the witnesses who tried to make the accused persons understand and even warned them but the accused persons did not listen to them and instead abused them and the petitioner demanded Rs.20 lac cash and a Car in dowry and said that unless and until the said demand is fulfilled he will not keep her in the house. It is also alleged that the petitioner has married with one Chanda Devi. Further case is that even the complainant was attacked with knife at the instigation of the petitioner and she received injuries and lastly the accused persons in the night of 25.7.2011 drove her out of the house keeping her jeweleries, clothes furniture, Godrej, T.V. set etc. along with Rs.5 lac and on the basis of that the Complaint Case No.448 of 2011 was registered.

After inquiry, summons were issued to the accused persons including the petitioner, vide letter dated 15.12.2012 against which the petitioner filed Cr. Revision No.33 of 20123 before the learned District and Sessions Judge, Motihari, who has dismissed the same vide order dated 17.5.2014 and against which the petitioner has preferred Cr. Misc. No.31488 of 2014 for quashing the order, which was also dismissed vide order



dated 29.8.2017. It further appears that thereafter the complainant and two other witnesses were examined under Section 244 of the Cr.P.C. before framing of the charges and thereafter the petitioner on 22.11.2017 filed a petition under Section 245 of the Cr.P.C. for discharge followed by another petition dated 22.11.2017 under Section 245 of the Cr.P.C. along with certified copies of the several documents.

The learned trial court i.e. ACJM- 14, Motihari vide order dated 6.2.2018 has rejected both the petitions as stated above filed by the petitioner.

Being aggrieved by the aforesaid order, the present revision application has been filed by the petitioner and the grounds taken by the petitioner is that it is out and out malicious proceeding against him as earlier to filing of this case he had filed a complaint Case bearing No.C-2554 of 2010 against the O.P.no.2 and others with allegation that she along with others entered inside the house of the petitioner and assaulted his wife and thereafter the present case has been lodged. Further grounds taken by the petitioner is that O.P.no.2 is not wife of the petitioner rather she was married with Someshwar Kumar and the complainant got divorced from her husband Someshwar Kumar on 4.6.2009 through an award by Lok Adalat whereas in



the present case she claims to be married with the petitioner on 5.5.2009 which is apparently false and concocted. Further contention of the learned counsel for the petitioner is that O.P.no.2 is the wife of the petitioner and even her daughter is not the daughter of the petitioner rather she is from her first husband, which will appear from the complaint case filed by O.P.no.2 against Someshwar Kumar, which is Annexure-6 to this petition. Further contention is that in spite of above and filing of impeaching documents by the petitioner which on its face value can not be doubted, the discharge petition of the petitioner was rejected by the ACJM on the ground that the petitioner has preferred Criminal Misc. No.31488 of 2014 to set aside the summoning order and the Hon'ble High Court dismissed the petition and directed to face the trial and also that witnesses including the O.P. No.2 got herself examined before charge and submission advanced by the defence is subject to prove from them.

Heard learned A.P.P., who has justified the impugned order and submitted that the aforesaid documents as adduced by the petitioner can be subject to discharge only during the trial and this is not the stage for coming end of that.

Having heard both sides and from perusal of the



record it also appears that two petitions were filed by the petitioner for discharge in this case on the basis of certain documents, however, it appears that authenticity of these documents can not be tested at this stage as up-till-now only the evidence of prosecution has been recorded before charge and those documents are not available on the record. Further maintenance case filed by the O.P.no.2 has also been allowed. Apart from that evidence before charge also makes out a case under Section 498A of the IPC against the petitioner.

In such view of the matter, I find no merit in this application. Accordingly, this application is dismissed.

(Vinod Kumar Sinha, J)

chn/-

U		T	
---	--	---	--

