

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.20392 of 2016

Arising Out of PS. Case No.-145 Year-2013 Thana- RAMPUR District- Gaya

Samir Khanna S/o Late Raj Kumar Khanna Resident of Mohalla- Girl School
Road, Amla Tola (Khana Khajana Gali) PS- Nagar District Katihar.

... .. Petitioner/s

Versus

1. State Of Bihar
2. Bandana Khanna W/o Shri Samir Khanna and D/o Radhe Shyam Tandan
Resident of Mohalla- Gewal Bigha, Munni Masjid Gali, PS Rampur Distt
Gaya.

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Alok Kumar, Adv
For the Opposite Party/s : Mr.Shyam Kr.Singh, APP

CORAM: HONOURABLE MR. JUSTICE BIRENDRA KUMAR
ORAL JUDGMENT

Date : 01-07-2019

Heard learned counsel for the parties.

2. The petitioner is accused in connection with Rampur P.S.Case No.145 of 2013 registered under Sections 341,498(A)/34 I.P.C. and 3/4 of Dowry Prohibition Act brought by his wife opposite party No.2. The prayer of the petitioner to discharge has been refused by order dated 27.11.2015.

3. The present stage of the case is that after closure of prosecution evidence the case is running for defence evidence and defence has been reopened on the prayer of the petitioner on payment of cost of Rs.500/- by order dated 29.09.2018 passed by the learned court below.



4. According to FIR, opposite party No.2 was married with the petitioner on 20.02.2002. Two children were born out of the wedlock, one was aged about 11 years, another of 8 years. Thereafter, allegation is that the husband developed extra marital relation and started torture to the petitioner in different ways and off and on started pressurizing her to bring more money from the parents. Further allegation is of commission of assault and expulsion of opposite party No.2 from the matrimonial house.

5. Contention of the learned counsel for the petitioner is that the allegation is out and out a concoction just to maliciously prosecute the petitioner. It is highly improbable that after 10 years of marriage, the petitioner or other family members would demand dowry and torture the victim. The material brought on the record would reveal that in the LIC papers and wherever it was necessary the petitioner has mentioned the name of opposite party No.2 as nominee. In fact, opposite party No.2 had some extra marital relation and that led to start of discord. Petitioner had also filed Informatory Petition No. 605 of 2014 before the learned C.J.M., Gaya alleging therein that the opposite party No.2 and her family members were coercing the petitioner and were pressurizing to execute a gift deed of his property at Katihar. The petitioner refused the same. Hence, the present false case.



6. Submission is that the present case is out and out a case of malicious prosecution and abuse of the process of the court which cannot be allowed.

7. Considering the fact that the trial has reached at an advanced stage and probability and improbability of the prosecution case cannot be a ground to discharge the accused if the material disclosed in the FIR prima facie discloses a case. Hence, this application has got no merit. Accordingly, it stands dismissed.

8. It is always open to the parties to reach amicable settlement if they so desire.

(Birendra Kumar, J)

Nitesh/-

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