

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.24987 of 2018

Arising Out of PS. Case No.-30 Year-2002 Thana- PIRBAHOR District- Patna

Rajiv Kumar Sinha Son of Sri Binod Kumar Sinha, resident of Nagarnausa Kothi, Makhania Kuan Road, P.S.- Pirbahore, Town and District- Patna.

... .. Petitioner

Versus

1. State Of Bihar
2. Sangeeta Sinha, W/o Rajiv Kumar Sinha & D/o Late Swarn Kumar, resident of Flat No.- B- 303, Manju Vatika Apartment, Bailey Road, P.S.- Rupaspur, Town and District- Patna.

... .. Opposite Parties

Appearance :

For the Petitioner : Mr.Pankaj, Adv

For the Opposite Parties : Mr. Suresh Prasad Singh, APP

CORAM: HONOURABLE MR. JUSTICE MADHURESH PRASAD
ORAL JUDGMENT

Date : 16-12-2019

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

The instant petition, under Section 482 of the Code of Criminal Procedure, 1973 has been filed for quashing the order dated 22.02.2010, passed by learned Sub-Divisional Judicial Magistrate, Patna, in G. R. Case no. 399 of 2002, corresponding to Pirbahore P. S. Case No. 30 of 2002, by which, the learned Magistrate has framed charges Under Sections 498A/34 of the Indian Penal Code and Section 3/4 of the Dowry Prohibition Act against the petitioner and others.



It is submitted by the petitioner's counsel that the entire prosecution story is false and fabricated having been instituted six years after the marriage. The nature of the allegations seen in the background of long delay after which the same has been lodged renders the entire prosecution to be unreliable. It, by no stretch of imagination, that there can be a demand for dowry six years after the marriage. It is also submitted that case of other co-accused person, who is father-in-law of the informant/opposite party no.2, was considered by this Court in Cr. Misc. No. 38154 of 2014 and the case of the father-in-law of the informant/opposite party No.2 was allowed and the charges framed against him were quashed as well as the entire criminal proceedings arising out of the instant case. It is submitted that in view of the aforesaid order, the instant case, in so far as the petitioner, who is husband of the informant/opposite party no.2 is concerned, should also be quashed. He further submits that the order whereby charges have been framed is clearly unsustainable in view of the submissions which have been taken note of hereinabove.

On a plain reading of the order dated 05.03. 2018 passed in Cr. Misc. No. 38154 of 2014, it is apparent that the Court has taken note of the fact that the petitioner therein was the father-



in-law presently living separately from the husband of the informant/opposite party no.2 for quite some time. The allegation of neglect and torture was against the husband on account of amorous relation having developed with a colleague, who is teacher in the same school. Same was made the basis to hold that the father-in-law (petitioner of Cr. Misc. no. 38154 of 2014) was falsely implicated in the instant case and the prosecution, in so far as the Binod Kumar Sinha was concerned, was nothing but an abuse of the process of the law. This Court had taken note of the fact that there was total absence of any specific overt act against the said petitioner, namely Binod Kumar Sinha while quashing the criminal proceedings in respect of co-accused, namely, Binod Kumar Sinha. This Court had relied upon the fact that petitioner of Criminal Miscellaneous No. 38154 of 2014 was similarly related to the informant/opposite party no.2. Order dated 05.03.2018 passed in Cr. Misc. no. 38154 of 2014 had been considered by the Apex Court also in appeal at the instance of informant/opposite party no.2 and Special Leave to Appeal was dismissed.

The circumstances taken note of herein above, therefore, made out a case for quashing of the criminal prosecution in



respect of co-accused, namely, Binod Kumar Sinha, who was father-in-law of the informant/opposite party no.2 and the prosecution, as against the earlier co-accused, who was elder brother-in-law of the informant/opposite party no.2 was also quashed.

Having regard to the parity in the relationship and the fact that there was no specific overt act against the said petitioners and the entire allegations were centering around the instant petitioner, who is husband of the informant/opposite party no.2, the criminal prosecution in respect of those accused persons had been quashed and order framing charge had also been quashed.

The orders do not support the claim of the petitioner in the instant proceedings. In fact, the said orders as also the allegations made in the First Information report are such that the Court would observe that there is sufficient *prima facie* material for arriving at a subjective opinion regarding there being sufficient case for taking the petitioner to trial. The *prima facie* satisfaction and framing of charge, therefore, in the aforesaid circumstances, in respect of the petitioner, who is husband of the informant/opposite party no.2, requires no interference.



Having considered the submissions advanced on behalf of the petitioner, this Court would find that no grounds have been urged for quashing the order framing charges.

The application stands dismissed.

(Madhuresh Prasad, J)

shyambihari/-

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