

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.84 of 2018

Arising Out of PS. Case No.-21 Year-2016 Thana- MAHILA P.S. District- Nalanda

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Md. Gulam Rasool, S/o Late Nawab, R/o Mohalla-Konha Sarai, P.S.-Laheri,
District-Nalanda, Bihar.

... .. Petitioner/s

Versus

1. The State of Bihar.
2. Rozi Fatma, W/o Sarfaraz Khan, D/o Md. Saiduddin, R/o Mohalla-Baradari,
P.S.-Biharsharif, District-Nalanda, Bihar.

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Raj Kishor Prasad, Adv.
For the Opposite Party/s : Mr. Ram Priya Sharan Singh, APP
Mr. Pankaj Kumar, Adv.

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CORAM: HONOURABLE MR. JUSTICE ASHUTOSH KUMAR
ORAL ORDER

7 19-11-2019 A supplementary affidavit has been filed on behalf

of the petitioner today in Court. Let it be taken on record.

Heard Mr. Raj Kishore Prasad, learned Advocate

for the petitioner, Mr. Pankaj Kumar, learned Advocate for

the informant/opposite party No. 2 and Mr. Ram Priya

Sharan Singh, learned Addl. Public Prosecutor for the State.

The petitioner, who is the father-in-law of opposite

party No. 2, seeks quashing of the order dated 16.08.2016

passed by the learned Sub-Divisional Judicial Magistrate,

Biharsharif, Nalanda in connection with Mahia P.S. Case No.



21 of 2016, whereby cognizance has been taken under Section 498A of Indian Penal Code and Section 3/4 of the Dowry Prohibition Act.

It appears that on an earlier occasion, the informant/opposite party No. 2 was noticed and further proceedings before the Court below with respect to the petitioner was stayed. On yet another occasion, this Court had directed the petitioner to produce any document in support of the fact that he stays separately from his son whose wife has lodged the case and any proof of his age.

The petitioner has brought on record a certificate of a local *Panchayat* functionary that he stays separately with his son whose estranged wife has implicated him in this case and a copy of the AADHAR card which discloses that the petitioner has attained the age of 70 years.

Learned counsel for the informant/opposite party No. 2 has however disputed the correctness of the aforesaid assertion of the petitioner by saying that there is no definite proof of the fact that the petitioner stays separately from his son.



In any view of the matter, considering the nature of accusation against the petitioner in the F.I.R. and the investigation reports, which are absolutely vague, this Court is inclined to set-aside the order of cognizance and all criminal prosecution arising therefrom.

While saying so, this Court has also taken note of the fact that the husband of the informant/opposite party No. 2 is facing trial.

The Supreme Court as well as this Court in many of the cases have observed that there is a growing tendency of implicating each and every member of the family in case of disturbed matrimonial relationship between the spouses. This tendency is required to be curbed, which can only effectively be done if the F.I.R. or the complaint is scrutinized with caution and circumspection and if it is found that the accusation is merely on the basis of relationship of the concerned person with the husband against whom the entire allegation is directed, it would be only appropriate, in order to secure the ends of justice, to set-aside such prosecution.



The present case appears to be a case of such kind where the accusation is because of the petitioner standing in a special relation of father to the husband of the informant/opposite party No. 2.

For the aforesaid reasons, the order taking cognizance against the petitioner is quashed. The entire criminal prosecution arising therefrom also is set-aside.

The application stands allowed.

(Ashutosh Kumar, J)

Praveen-II/-

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