

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.50704 of 2019

Arising Out of PS. Case No.-258 Year-2018 Thana- SHEKHPURA COMPLAINT CASE
District- Sheikhpura

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SUMIT KUMAR SINHA Son of Sri Brij Kishor Prasad Sinha Permanent resident of Puraniganj, P.S. - Kotwali, Town and District - Munger, presently residing at Santar Purani Bazar, P.S.- Town and District - Lakhisarai

... .. Petitioner/s

Versus

1. THE STATE OF BIHAR
2. Puja Kumari Wife of Sri Sumit Kumar Sinha Daughter of Late Nageshwar Prasad Sinha, Mohalla - Satbighi, Kachahari Road, Town, P.S. and District - Sheikhpura

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr.Sanjiv Kumar.
For the Opposite Party/s : Mr.Rabindra Kumar

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CORAM: HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH
ORAL ORDER

- 3 11-12-2019 Heard the learned counsel for the petitioner and the learned A.P.P. for the State.

This is an application for grant of anticipatory bail in connection with Complaint case no. 258C of 2018 registered for the offences punishable under Section 498A of Indian Penal Code and 3/4 of Dowry Prohibition Act.

The allegation as per the complaint petition is that the marriage of the complainant was solemnized on 30.06.2017 in accordance with the Hindu customs and rites with the petitioner herein and at the time of marriage, the father of the complainant had given cash, ornaments, fridge and various other gifts. It is



alleged that after the marriage, the complainant had gone to the house of the petitioner herein. Prior to marriage, the family members of the petitioner had disclosed that the petitioner is a Loan Manager in S.S. Bank, Dumka and has qualified in the examination conducted by *Karamchari Chayan Aayog*. It is further alleged that after the complainant had gone to her in-law's house, the accused persons including the petitioner had started torturing her on account of non-fulfilment of the demand for dowry and when the brother of the complainant had come to meet the complainant at Lakhisarai, the accused persons including the petitioner herein, had started abusing him and told the complainant to bring a sum of Rs. 2 lacs, whereafter again from time to time, the petitioner used to threaten the complainant that he would leave her if the dowry demand for a sum of Rs. 2 lacs is not fulfilled. It is also alleged that subsequently, it turned out that the petitioner is not a government servant.

The learned counsel for the petitioner has submitted that the marriage in between the complainant and the petitioner has been dissolved by a judgment dated 03.08.2019, passed by the learned court of Principal Judge, Family Court, Sheikhpura, hence nothing survives in the complaint in question, thus the



petitioner is entitled to be granted the privilege of anticipatory bail.

I have heard the learned counsel for the petitioner and I find that the complaint has been filed by the opposite party no. 2 herein, before the learned court of Chief Judicial Magistrate, Sheikhpura on 30.06.2018 whereas the dissolution of marriage has taken place by passing of the judgment in question on 03.08.2019, hence as per the requirement of Section 498A of the Indian Penal Code, a valid marriage is a necessary ingredient to invite the offence under the provisions of Section 498 of Indian Penal Code and since the marriage of the petitioner and the opposite party no 2 was very much in existence on the date of filing of the complaint i.e. on 30.06.2018, it cannot be said that with the dissolution of the marriage, by passing of a decree of divorce vide aforesaid judgment dated 03.08.2019, the provisions of Section 498A would not be attracted and no offence, as alleged would be made out. It is not the case of the petitioner that with the passing of the decree of divorce dated 03.08.2019, the opposite party no. 2 has thought it proper to withdraw the connected complaint case.



Considering the facts and circumstances of the case and the provision/ principle of law referred to hereinabove, this Court is of the view that a bare perusal of the complaint petition definitely makes out a *prima facie* case as against the petitioner herein of having committed the alleged offence under Section 498A of the of Indian Penal Code and Section 3/4 of D.P. Act. Moreover, the allegations in the complaint petition dates back to a period when the marriage of the petitioner and the opposite party no. 2 was subsisting, apart from the fact that the complaint has also been filed on a day when the marriage in between the petitioner and the opposite party no. 2 had not been dissolved. Thus, the submissions made by the learned counsel for the petitioner are fallacious and contrary to law.

Having regard to the facts and circumstances of the case, I do not find any merit in the present petition, accordingly the same stands dismissed.

(Mohit Kumar Shah, J)

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