

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.8058 of 2019

Arising Out of PS. Case No.-204 Year-2015 Thana- MADHUBANI COMPLAINT CASE
District- Madhubani

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Dilip Mishra, Son of Ratneshwar Mishra, Resident of Village- Arer Dih Tola,
P.S.- Arer, District- Madhubani.

... .. Petitioner

Versus

1. The State of Bihar
2. Ragini Kumari Mishra, W/o Dilip Mishra, D/o Lallan Kumar Jha, Resident
of Village- Barha, P. S.- Benipatti, District- Madhubani.

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Ratanakar Jha, Advocate
For the Opposite Party/s : Mr. Dr. Ajeet Kumar, APP

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CORAM: HONOURABLE MR. JUSTICE VINOD KUMAR SINHA
ORAL ORDER

2 17-12-2019 This application is for quashing the order dated

22.11.2018 passed in connection with C.R. No. 204 of 2015-

T.R. No. 748 of 2018 passed by the learned Judicial Magistrate-

1st, Class, Benipatti, Madhubani, by which, the charges have

been framed against the petitioner.

From perusal of the record, it appears that petitioner
has earlier filed an application for quashing of order dated
16.05.2016, by which, the learned Sub Divisional Judicial
Magistrate has taken cognizance against the petitioner for
offence under Section 498A of the IPC, the petitioner was
permitted to withdraw after some arguments to raise of his point
at this stage of framing of charge.

It further appears that again the petitioner has come



before this Court also against the order dismissing the discharge petition filed by the petitioner, but vide order dated 01.11.2018 passed in Criminal Misc. No. 49151 of 2018, the same was dismissed as withdrawn with liberty to the petitioner to raise of such plea at the time of framing of charge.

The case in short is that a complaint case was filed against the petitioner and other accused persons by the complainant-opposite party no.2 with respect to demand of T.V. washing machine and freeze etc. and for non-fulfillment of demand, subjecting her to cruelty and attempt to kill her by setting her on fire. Further allegation is that on 15.06.2011 she was brought from Assam to Madhubani and asked to return to her Maiké.

On the basis of the above, complaint case was sent to the police for registration of the case under Section 156(3) of Cr.P.C. and on that basis, Benipatti P. S. Case No. 54 of 2014 was registered under Sections 341, 323, 379, 498A/34 of IPC, read with Section 3/4 of Dowry Prohibition Act. It further appears that police after investigation submitted final form showing the mistake of fact against the petitioner. The opposite party no.2, thereafter, filed a protest petition before the learned Chief Judicial Magistrate, 1st Class, Benipatti, which was treated as



complaint case and after examination of the complainant on solemn affirmation and conducting enquiry, finding a *prima facie* case, issued process against the petitioner and other accused persons.

Against which, as stated above, petitioner has moved before this Court for quashing of the order issuing the process, but the same was disposed of as stated above, vide order dated 20.02.2018 passed in Criminal Misc. No. 24734 of 2017.

It further appears that thereafter, the case was posted for evidence before charge under Section 244 of Cr.P.C. and after recording of the evidence of witness before charge. Petitioner has again filed an application before the learned trial court u/s 245 of Cr.P.C. on the ground that no case is made out against the petitioner and other accused persons, which was dismissed, vide order dated 20.06.2018 and fixed the date of framing of charge.

Against the above order also petitioner preferred application under Section 482 of Cr.P.C. which was also permitted to be withdrawn, vide order dated 01.11.2018 passed in Criminal Misc. No. 49151 of 2018.

Thereafter, it appears that charge has been framed which is under challenge in this application.



The ground for quashing of the charge is that litigation is pending between the parties and a complaint was also filed at Assam by the opposite party no.2. Apart from that matrimonial cases are also pending between the parties and continuation of the present proceedings will amount to prosecuting the petitioner at two different places for the same offences.

Learned counsel for the petitioner lastly submitted that he is ready for one time settlement, considering the large number of litigation going on between the parties.

Heard learned APP, also.

Having heard both sides, in view of the facts, as discussed above, it appears that earlier petitioner has already challenged the order dismissing the discharge petition on the basis of some materials, which he was permitted to withdraw and thereafter, on the same materials, the present case has been filed against the order framing of the charge.

From perusal of the record, it appears that there are *prima facie* materials showing the case under Section 498A of IPC against the petitioner, who happens to be the husband of the complainant. So far litigation pending at two different places are concerned, that cannot be looked into at this stage.



In view of the facts, as discussed above, I find no merit in this application. Accordingly, this application is dismissed.

However, considering the fact that large number of litigation is going on between the parties and petitioner is interested for any amicable settlement either one time settlement or by way of any other amicable settlement, as such, petitioner may approach the learned trial court, who before commencing of the evidence, after charge, notice the complainant and after his appearance either taken up the mediation himself send it to a trained mediator in order to come to an amicable settlement between the parties within a period of three months of the filing of application by the petitioner.

With the aforesaid observation, this application is dismissed.

(Vinod Kumar Sinha, J)

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