

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.77775 of 2019

Arising out of PS. Case No.-66 Year-2019 Thana- KIUL District- Lakhisarai

Rajesh Kumar @ Rajesh Yadav Son of Kedar Yadav Resident of Village -
Nathudih, P.S.- Kiul, District - Lakhisarai

... .. Petitioner/s

Versus

1. The State of Bihar
2. Sanjay Yadav Son of Late Jageshwar Yadav Resident of Village - Bilauri,
P.S. and District - Lakhisarai

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. Manoj Kumar, Advocate
For the State	:	Mr. Jharkhandi Upadhyay, APP
For the Informant	:	Mr. Sanjeev Kumar, Advocate

CORAM: HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH
ORAL JUDGMENT

Date : 08-07-2020

The matter has been heard *via* video conferencing due to circumstances prevailing on account of the COVID-19 pandemic.

2. Heard Mr. Manoj Kumar, learned counsel for the petitioner, Mr. Jharkhandi Upadhyay, learned Additional Public Prosecutor (hereinafter referred to as the 'APP') for the State and Mr. Sanjeev Kumar, learned counsel for the opposite party no. 2 (informant).

3. The petitioner apprehends arrest in connection with Kiul P.S. Case No. 66 of 2019 dated 16.06.2019, instituted under Sections 341, 323, 354, 498(A), 504, 506/34 of the Indian Penal Code.



4. The allegation against the petitioner, along with others, is of assault, exerting pressure and conspiracy to kill the daughter of the informant, for making her agree to withdraw the earlier case filed by her against them.

5. Learned counsel for the petitioner submitted that he is the husband and has been falsely implicated. It was submitted that the daughter of the informant had earlier filed Chanan PS Case No. 74 of 2018 dated 24.05.2018, instituted under Sections 498A, 341, 323, 325, 504/34 of the Indian Penal Code and 3/4 of the Dowry Prohibition Act. Learned counsel submitted that the present case has been filed after one year of the earlier case filed by her father and, thus, there are two cases of similar nature simultaneously pending. Learned counsel submitted that though it is alleged that the initial occurrence took place on 02.02.2019, but FIR was lodged on 16.06.2019, i.e., after more than four months and no reason has been given. It was submitted that the petitioner has also filed Matrimonial Case No. 24 of 2019 under Section 9 of the Hindu Marriage Act, seeking restitution of conjugal rights, which is pending. It was submitted that the petitioner is ready to keep the wife. Learned counsel submitted that the petitioner is a very poor person and sells milk and is doing daily wages work.



6. Learned APP and learned counsel for the informant submitted that the intention of the petitioner is not fair right from the beginning. It was submitted that in the complaint case filed by the daughter of the informant, i.e., the wife of the petitioner, under the orders of the Court, he had taken her to the matrimonial home, but again he started his old activities of torture, abuse, assault and harassment, due to which she had to run away to save her life. It was submitted that before the Court he takes a very pious stand that he would keep his wife, but when the opportunity is given, he goes back and starts assaulting and torturing. Learned counsel submitted that false statement has been made in the application that the petitioner was a poor person and sells milk and is doing daily wages work, but the fact is, that he has his own business and is also under the employment of ICICI Bank. Learned counsel submitted that the reason for delay in lodging of the FIR is cogently explained in the FIR itself, in which it has been stated that initially a written complaint was given to the local Chanan Police Station but no action was taken and, thus, when the petitioner moved before the Court and the Court issued show cause to the SHO, FIR was lodged in Kiul P.S., which was newly created having jurisdiction in the matter. Learned counsel submitted that because of the experience of the victim where she has been



regularly harassed, tortured and assaulted and even after the intervention of the Court she was taken but the same situation prevailed and she had to run away from her matrimonial home to save her life, the offer made by the petitioner is hollow and only for the purpose of saving him from the adverse consequences of the present case.

7. Having considered the facts and circumstances of the case and submissions of learned counsel for the parties, the Court is not inclined to interfere in the matter. Accordingly, the application stands dismissed.

8. The interim protection given earlier to the petitioner under order dated 29.11.2019, stands vacated.

(Ahsanuddin Amanullah, J)

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