

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.86280 of 2019

Arising Out of PS. Case No.-208 Year-2018 Thana- AURANGABAD COMPLAINT CASE
District- Aurangabad

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CHANDAN SINGH Son of Vijay Kumar Singh @ Vijay Singh Resident of
Village - Dhongra, P.S.- Amba, District - Aurangabad (Bihar).

... .. Petitioner/s

Versus

1. The State of Bihar Bihar
2. Soni Kumari Wife of Chandan Singh Daughter of Suchit Singh, Resident of
Village - Dhongra, P.S.- Amba, District - Aurangabad at present resident of
Aanjantole Rathaur Bigha, P.S.- Madanpur, District - Aurangabad.

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr.Leelawati Kumari
For the Opposite Party/s : Mr.Mohammad Sufyan

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CORAM: HONOURABLE MR. JUSTICE VINOD KUMAR SINHA
ORAL ORDER

2 07-01-2020 Heard the parties.

This application has been filed for quashing of order dated 12.10.2018 passed by the learned SDJM, Aurangabad in Complaint Case No.208 of 2018 , whereby and whereunder after inquiry the process has been issued against the petitioner finding a *prima facie* case under Section 323 and 498(A) of the IPC.

The case in short is that the complainant Sony Kumari happens to be wife of the petitioner lodged a case against the petitioner making allegation of demand of Rs.50,000/- Motorcycle and Fridge and for that she was subjected to cruelty and assaulted by these accused persons and also allegation is that she was taken to the hospital and she was treated there but it appears that the cognizance has been taken under Sections 498A and 323 of the IPC and Section 3/4 of the D.P. Act and thereafter



the process has been issued against the petitioner, which has been challenged by the petitioner in this application.

Submission of the learned counsel for the petitioner is that earlier to that the petitioner had filed a case under Section 9 of the Hindu Marriage Act for restitution of the conjugal right but the complainant is not ready to reside with the petitioner and she has lodged this case later on but the learned SDJM has not considered the aforesaid aspect and continuation of this proceeding against the petitioner will be abuse of the process of the court.

Heard learned APP and perused the record. From perusal of the record, it appears that there are *prima facie* materials against the petitioner showily offence under Sections 498A and 323 of the IPC as well as Sections 3/4 of the D.P.Act.

So far plea of the petitioner that he had filed earlier a matrimonial case under Section 9 of the Hindu Marriage Act for restitution of the conjugal rights i.e. defence of the petitioner that can not be considered at this stage.

Accordingly, this application stands dismissed.

(Vinod Kumar Sinha, J)

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