

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.52326 of 2016

Arising Out of PS. Case No.-282 Year-2014 Thana- BEUR District- Patna

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Anand Prakash, son of Surendra Prasad Singh, resident of village Bishunpur
Pakari, P.S. Beur, District Patna. Petitioner.

Versus

1. The State of Bihar.
2. Ramanand Singh, son of Late Raj Bansh Singh, resident of Rudra Residency,
Gola Road, P.S. Rupaspur, District Patna at present Regional Director
Agriculture Research Centre, Dhelwa, P.S. Buer, District Patna.

... .. Opposite Parties.

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Appearance :

For the Petitioner	:	Mr. Surendra Kumar Singh, Sr. Advocate Mr. Raj Dular Sah, Advocate Mr. Praveen Prakash, Advocate
For the State	:	Mr. Iftekhar Mahmood, APP
For the O.P. No.2	:	Mrs. Mamta Kumari, Advocate

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CORAM: HONOURABLE MR. JUSTICE ANJANI KUMAR SHARAN
C.A.V. ORDER

6 23-12-2022 Heard Mr. Surendra Kumar Singh, learned senior

counsel assisted by Mr. Raj Dular Sah and Mr. Praveen Prakash

for the petitioner, Mrs. Mamta Kumari for the opposite party

no.2 and learned APP for the State.

Invoking the jurisdiction under Section 482 of the
Code of Criminal Procedure, the petitioner has moved the
present application for quashing the order dated 29.02.2016
passed by the learned J.M. 1st Class, Patna in Complaint Case
No. 3796 (C) of 2015 whereby on the protest-cum-complaint
petition of opposite party no.2, cognizance has been taken
against the petitioner under Sections 494, 498A, 506 & 500 of
the Indian Penal Code.



The prosecution case, in brief, is that opposite party no.2 gave an application before the Officer-in-Charge of Beur P.S. on 10.12.2012 stating therein that he got his younger daughter married with the petitioner on 06.05.2007 as per Hindu Rites and Rituals. It is alleged that the petitioner has left his daughter to his house and in the month of December filed a divorce case bearing Matrimonial Case No.905/2012. It is further alleged that the petitioner has got another marriage without divorce in which his father, mother, maternal uncle and maternal aunt had participated. In order to save skin from another marriage, he maligned the character of his daughter and pasted a poster on the wall of the gate of the institution. Prior to this he also pasted a poster on the wall of his apartment to the effect that the informant has got his younger daughter married with on Tribhauan Singh.

The police investigated the matter and on conclusion of the investigation, submitted final form against petitioner and others on 28.02.2015 stating the mistake of fact and not sent up for facing the trial.

Aggrieved with the aforesaid, the informant filed the protest-cum-complaint petition on 26.09.2015, i.e., after seven months from the date of submission of the final form.



Thereafter, the learned Magistrate took the S.A. of the complainant and further examined his daughter and on the basis of the material available on record took cognizance on 29.02.2016 u/S 494, 498(A), 506, 500 of the I.P.C. against the petitioner. Thereafter, the processes have been issued against the petitioner.

Being aggrieved and dissatisfied with the aforesaid order, the petitioner has preferred this application for quashing the same.

It is submitted on behalf of the petitioner that the opposite party no.2 and his daughter are unnecessarily harassing the petitioner by filing cases after cases. The alleged date of occurrence is 10.12.2014 for which Beur P.S. Case No. 282/2014 was filed, whereas in the protest cum complaint case date of occurrence is 25.11.2014 and 03.12.2014 which is contrary to the contents of F.I.R.

The Matrimonial (Divorce) case no. 905/2012 was filed by the petitioner on the ground of cruelty and desertion in which notice was issued to Opposite Party No.2 and after receiving the notice, in retaliation thereto, Beur P.S. Case No. 282/2014 has been filed. Both the husband and wife are living separately since the date of filing of the matrimonial case no.



905/2012, hence torturing, as stated in the protest cum complaint case, is not possible. During reconciliation in Matrimonial Case No. 905/2012 the daughter of O.P. No.2 refused to lead further conjugal life with the petitioner.

The O.P. No.2 has filed Domestic Violence Case No. 340/2014 in the Court of A.C.J.M., XII Patna which was allowed on fictitious and concocted ground without taking any evidence on either party and against the order of learned A.C.J.M.-XII, the petitioner preferred an appeal vide Criminal Appeal Case No.21/2018 on 02.03.2020 and the learned A.D.J. Patna on the ground that since both husband and wife are living separately since 2012 in that situation no question of torturing on part of husband arises in 2014.

It is further submitted that O.P. No.2 has suppressed the order of the learned Additional District Judge, IX that she is working as 'Assistant Teacher' and is getting salary. Due to torture and harassment made by O.P. No.2 to the petitioner, the petitioner went in depression and left the job and at present is dependent on his parents.

It is also submitted that O.P. No.2 has brought new facts in protest cum complaint petition apart from the contents of the Beur P.S. Case No. 282/2014. It is lastly submitted that



the impugned order of taking cognizance against the petitioner is based without foundation and without there being material available on record.

In buttress of his submission learned Senior Counsel appearing on behalf of the petitioner has relied upon the judgment of the Hon'ble Supreme Court of India in the case of *State of Haryana and ors. Vs. Ch. Bhajanlal and ors. reported in 1992 AIR (SC) 604*, in the case of *Rishipal Singh vs State of U.P. and another reported in AIR 2014 Supreme Court 2567* and *Jamuna Singh and others versus Bhadai Shah reported in 1964 AIR (SC) 1541*.

Per contra, learned counsel appearing on behalf of O.P. No.2 has submitted that from bare perusal of Beur P.S. Case No. 282/2014, it is crystal clear that after desertion of his wife the petitioner left her at the house of her father on 2012 and soon after he filed a divorce case bearing Divorce Case No. 905/2012, thereafter he started to disturb the life and liberty of the O.P. No.2 and his daughter, namely, Mansha Kumari (the wife of the petitioner) by many ways. The final form was submitted by the police in connivance with the petitioner and police authorities which clearly indicates that the petitioner is an influence person because even after having the sufficient



materials on record the police gave final form in the case but the learned Court below on the protest petition has taken cognizance against him. It is further submitted that mere filing of divorce petition do not give right to the party to play with life and liberty of the opposite party by sending slanderous messages and posting the pamphlets and posters in the public domain with intent to damage the prestige of the O.P. No.2 and his daughter. In the response to the reply that the petitioner went in depression and left the job and at present is dependent on his parents, it is submitted that the petitioner left the H.C.L job for better job and after leaving the said job he has joined another company on higher salary than he was getting in the previous and residing in Delhi. It is lastly submitted that the petitioner has destroyed not only the conjugal life of the daughter of the answering respondent rather he has snatched her life and liberty and has compelled her to live in fear by continuously torturing the answering respondent and his daughter. Accordingly, it prayed that this application may be dismissed.

Having considered the submissions made by the learned counsel for the parties and the materials available on record, in my considered opinion, the order dated 29.02.2016 passed by the learned J.M. 1st Class, Patna in Complaint Case



No. 3796 (C) of 2015 has no leg to stand and is hereby set aside
and this application is allowed.

(Anjani Kumar Sharan, J)

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