

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.22462 of 2023

Arising Out of PS. Case No.-4534 Year-2018 Thana- PATNA COMPLAINT CASE District-
Patna

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Ajay Krishna, Son of Shri Ram Chandra Prasad, Resident of Mohalla:
Saidpur Nahar Road, PS- Kadam Kuan, Dist- Patna

... .. Petitioner/s

Versus

1. The State of Bihar
2. Ruchi Kumari, wife of Ajay Krishna, Resident of Mohalla: Rukunpura,
Bailey Road, PS- Rupaspur, Dist- Patna

... .. Opposite Party/s

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Appearance :

For the Petitioner/s

: Mr. Rekha Prasad

For the Complainant/Opposite Party No. 2

: Mr. Raj Krishna Jha, Advocate

Mr. Arvind Kumar Mour, Advocate

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CORAM: HONOURABLE MR. JUSTICE CHAKRADHARI SHARAN SINGH

ORAL ORDER

2 17-10-2023 The petitioner's application under Section 205 of the CrPC was rejected by the learned S.D.J.M., Patna, by an order dated 16.03.2022, which the petitioner assailed by filing Criminal Revision before the learned Sessions Judge, Patna. The said Criminal Revision application has been rejected by the learned Additional District and Sessions Judge-XX, Patna, by an order dated 17.01.2022 passed in Criminal Revision No.104 of 2022. The said order dated 17.01.2022 is under challenge in the present application filed under Section 482 of the CrPC.

2. Learned counsel appearing on behalf of the petitioner has submitted that the petitioner is working, as a

Manger, in the Bank of India and it will be arduous for him to present himself before the court on each and every date. She submits that the petitioner undertakes to appear before the court as and when required, if his personal appearance before the court below is dispensed with invoking Section 205 of the CrPC. She has placed reliance on an order of this Court dated 17.08.2015 passed in Cr. Misc. 55451 of 2007 (Rajan Nanda vs. The State of Bihar and another) and the Supreme Court's decision in case of *Rameshwar Yadav and others Vs. State of Bihar* reported in **2018 (1) PCCR 384**. Reliance has also been placed on another Coordinate Bench of this Court in case of *Manish Ghai vs. State of Bihar* reported in **2007(1) PLJR 822**.

3. From the records of the present case, it transpires that the petitioner is the husband of Opposite Party No. 2. The allegation is of demand of dowry and torture meted out to her by the petitioner. Further, it appears that the petitioner has filed a divorce case against Opposite Party No. 2, seeking dissolution of marriage, before lodging of the complaint case. From the cause title of the present application, it appears that the petitioner is resident of Patna. It has been stated in the application that the petitioner is unable to attend the court physically.

4. In the Court’s opinion, reliance placed by the learned counsel for the petitioner on Supreme Court’s decision in ***Rameshwar Yadav*** (*supra*) is of no avail as facts of the said case were entirely different. In the said case, the Supreme Court had noticed that the appellants were residents of Pune and one of the them was working at Hyderabad. Taking into account such facts and circumstances of that case, the Supreme Court had allowed the prayer of the appellants under Section 205 of the CrPC.

5. The facts of the present case are materially different for the purpose of exercise of power under Section 205 of the CrPC. The petitioner has already appeared before the court below.

6. Considering the facts and circumstances, I do not find any reason to interfere with the impugned order passed by learned Additional District and Sessions Judge-XX, Patna.

7. This application is accordingly dismissed.

(Chakradhari Sharan Singh, J)

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