

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.44695 of 2015

Arising Out of PS. Case No.-1240 Year-2014 Thana- SITAMARHI COMPLAINT CASE
District- Sitamarhi

Chandan Kumar, son of Bindhyachal Prasad Singh, Resident of Village-Athri
Gargata, Police Station - Runni Saidpur, District Sitamarhi.

... .. Petitioner

Versus

1. State of Bihar
2. Sarita Kumari, wife of Neeraj Kumar, resident of Village- Athari Gargata,
P.S-Runnisaidpur District Sitamarhi, presently residing at Village-
Panthpakar P.S- Bathnaha, District Sitamarhi.

... .. Opposite Parties

Appearance :

For the Petitioner/s : Mr. Vijay Kumar @ Vijay Kr. Singh, Advocate
For the Opposite Party/s : Mr. Binod Kumar, APP

CORAM: HONOURABLE MR. JUSTICE SANDEEP KUMAR
ORAL ORDER

2 18-07-2023 Heard learned counsel for the petitioner and
learned APP for the State.

2. The present application has been filed for
quashing of the Complaint Case No.1240 of 2014 registered for
the offences under Sections 323, 379 & 498-A of the Indian
Penal Code and under Section 3/4 of the Dowry Prohibition Act.

3. As per the Complaint petition, the
complainant was married with accused-Neeraj Kumar in the
year 2006 according to Hindu rites and customs. It is alleged
that after some time, the accused persons started demanding
Rs.10,00,000/- from the complainant and on non-fulfillment of
demand of dowry, the accused persons started harassing the
complainant physically and mentally. When the complainant



informed this fact to her parents, her father took her to maternal home. After some time, the complainant came to her matrimonial home but the accused persons did not change their behaviour and again started demanding the dowry and ultimately, the accused persons ousted the complainant from her matrimonial home after snatching her ornaments and cloths.

4. Learned counsel for the petitioner submits that the petitioner is the brother-in-law (*devar*) of the complainant and there is general and omnibus allegations against him. He further submits that the husband of the complainant is a private tutor whereas, the complainant is a Panchayat Teacher and it is the complainant who does not want to stay with her husband and therefore, the husband of the complainant had filed a divorce case vide Matrimonial Case No.257 of 2013 and when the complainant came to know about the Matrimonial case, this complaint case has been filed by her implicating all the family members of her husband.

5. Learned APP appearing for the State has opposed this application.

6. Considered the submissions of the parties. From the record, it appears that the petitioner is the brother-in-law (*devar*) of the complainant and also a junior member of the



family. It also appears from the record that after filing of Matrimonial Case no.257 of 2013 by the husband of the complainant for dissolution of marriage, the present complaint case has been filed by the complainant by implicating all the family members of her husband. There are general and omnibus allegations against the petitioner. Therefore, allowing to continue prosecution in absence of clear allegations against the petitioner would simply result in an abuse of the process of law.

7. Considering the aforesaid facts as also considering the law laid down by the Apex Court in the case of ***Kahkashan Kausar @ Sonam vs. State of Bihar*** reported in ***2022 SCC OnLine SC 162***, this application is allowed.

8. Accordingly, the Complaint Case No.1240 of 2014 registered for the offences under Section 323, 379 & 498-A of the Indian Penal Code and under Section 3/4 of the Dowry Prohibition Act and all consequential proceedings arising out of the aforesaid complaint case are hereby quashed with respect to present petitioner only but the prosecution against the rest accused persons shall continue.

(Sandeep Kumar, J)

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