

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.54986 of 2015

Arising Out of PS. Case No.-1016 Year-2006 Thana- NAWADAH COMPLAINT CASE
District- Nawada

=====

Malti Devi

... .. Petitioner/s

Versus

The State Of Bihar and Ors

... .. Opposite Party/s

=====

Appearance :

For the Petitioner/s : Mr.Anil Chandra
For the Opposite Party/s : Mr.Rina Sinha app

=====

CORAM: HONOURABLE MR. JUSTICE SANDEEP KUMAR
ORAL ORDER

4 13-07-2023 Heard learned counsel for petitioner and learned
Additional Public Prosecutor.

2.The present application is filed for quashing of order dated 25.05.2015 passed in Cr. Revision No. 112/2012/16/14 arising out of Complaint case No. 1016/06 Tr. No. 262/12 by which the learned Additional Sessions Judge 1st, Nawada had set aside the order dated 10.09.2012 passed by Judicial Magistrate 1st Class, Nawada and remanded the case for fresh consideration.

3. Prosecution story in short is that the complainant was married to Ajay Kumar. Two children were born out of the wedlock. The complainant disclosed that her in laws demanded motorcycle, colour T.V and Rs. 25,000/-. Due to non fulfilment, in laws and her husband assaulted her and tried to kill her.



4. It has been submitted by the learned Counsel for the petitioner that the accused persons filed a petition dated 23.07.2012 under Section 245 which was heard by learned Magistrate and after considering the materials available on record, the learned Magistrate observed that there is sufficient material against the accused persons for framing of charge for offence under Section 323, 341, 379, 504, 506, 498A, 325 of Indian Penal Code.

5. It has been submitted by learned counsel for the petitioner that from reading the entire complaint and the other materials available on record, the prima-facie case under Section 498A is made out and charges should be framed as per the law laid down by Supreme Court in the case of *State of Bihar Vs. Ramesh Singh 1977 SCC (4) 39* and the Additional Judge in Criminal Revision has exceeded his jurisdiction by examining the merits of the case as if he was holding a trial at the stage of framing of charge and the same is not permissible in law.

6. The jurisdiction of the Magistrate and the Revisional Court is to come to see that prima-facie whether a strong case under Section 498 A is made out or not.

7. Once the Magistrate had found strong Prima-facie case



for framing of charge, the Revisional Court cannot hold a mini trial at the stage of framing of charge.

8. The learned Counsel for the opposite party no. 2 has defended the order of the learned Revisional Court and submits that no charges under Section 498A is made out.

9. In have gone through the complaint and the materials available on record. From reading of the materials available on record, I am of the view that the charge under Section 498A and other sections should have been framed and the impugned order passed by the learned Revisional Court is an illegal order and the same cannot be sustained.

10. In these circumstance, the order dated 25.05.2015 passed by the Additional Sessions Judge 1st, Nawada in Cr. Revision No. 112/2012/16/14 arising out of Complaint case No. 1016/06 Tr. No. 262/12 is hereby quashed.

11. The Court below is directed to expedite the trial.

12. Let a copy of the order be sent to District Judge, Nawada through Fax and E-mail forthwith for its compliance.

(Sandeep Kumar, J)

Sunnykr/-

U		T	
---	--	---	--

