

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.45027 of 2019

Arising Out of PS. Case No.-76 Year-2016 Thana- MAHILA P.S. District- Patna

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Bihari @ Sameer Kumar @ Sameer Sawarn @ Samir Son of Sri Satish Kumar Sharma Resident of Village-Jogabigha,P.S-Parbalpur, District-Nalanda, at present residing at Ashok Nagar, Road No.11, Kankarbagh Colony, P.S-Kankarbagh, Town and District-Patna.

... .. Petitioner/s

Versus

1. The State Of Bihar
2. Sangita Sharma Wife of Amit Kumar Resident of East Indira Nagar, Adarsh Colony Road No.1, House No.13, Kankarbagh Colony, P.S.-Kankarbagh, Town and District-Patna.

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Abhimanyu Vatsa, Advocate
For the Opposite Party/s : Mr. Kumar Veerendra Narayan, APP

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CORAM: HONOURABLE MR. JUSTICE SANDEEP KUMAR
ORAL ORDER

9 07-04-2023 Heard learned counsel for the petitioner and learned
APP for the State.

This application has been filed for quashing of the order dated 30.10.2017 passed by learned Judicial Magistrate, 1st Class, Patna, in connection with Mahila P.S. Case No. 76 of 2016/G.R. No. 7134 of 2016 by which learned Magistrate has taken cognizance against the petitioner for the offences under Sections 323, 341, 498A and 34 of the Indian Penal Code and Section 3/4 of the Dowry Prohibition Act.

Prosecution story in short is that the informant was married with Amit Kumar in 2011. After few months all the accused persons assaulted her and had been threatening to



remove her from their house. Thereafter, the husband took her to Delhi and the husband of the informant filed a divorce petition at Delhi. He did not use to give any maintenance, but an order of maintenance was passed in the Divorce case and she was allowed to stay at matrimonial home.

It has been submitted by learned counsel for the petitioner that charge-sheet has been submitted by the police. He further submits that there is no allegation levelled against him in the entire F.I.R which is a detailed F.I.R. Therefore, this quashing petition is fit to be quashed.

The learned counsel for the opposite party no. 2 on behalf of informant has submitted that during investigation, allegations have been levelled against the petitioner who is the cousin dewar (mamera dewar) of the husband of the informant. He has further submitted that in view of the allegations levelled by the informant during further investigation, it is not fit case for quashing at the stage of cognizance.

I have heard the parties and examining the records of the case, the informant has filed a detailed F.I.R. in which there was no whisper of allegations and it seems that during investigation, the informant has levelled the same allegation against the petitioner only to harass him. The tendency of the



complainant/informant, these days to rope in the distant relatives of the husband cannot be appreciated and malicious prosecution of the relatives against whom there is no allegation should not be allowed to continue. The petitioner has also relied upon the judgment of Hon'ble Supreme Court in the case of ***Kahkashan Kausar @ Sonam Vs. State of Bihar*** reported in ***2022 SCC OnLine SC 162***.

I have considered the submissions of the parties.

The allegation levelled against the petitioner is general and omnibus, therefore, the prosecution of the petitioner is an abuse of the process of the Court. In view of the law laid down by the Hon'ble Supreme Court in the case of ***Kahkashan Kausar Sonam and Ors (supra)*** this application is allowed.

The order dated 30.10.2017 passed by learned Judicial Magistrate, 1st Class, Patna, in Mahila P.S. Case No. 76 of 2016/G.R. No. 7134 of 2016 and all consequential proceeding arising out of the aforesaid F.I.R. are hereby quashed.

(Sandeep Kumar, J)

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