

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.28617 of 2015**

Arising Out of PS. Case No.-294 Year-2012 Thana- DEHRI TOWN District- Rohtas

Abhay Raj @ Abahy Raj @ Pintu Singh

... .. Petitioner/s

Versus

State Of Bihar and Anr

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Mritunjay Kumar
For the Opposite Party/s : Mr.Yogendra Kr. Singh, APP

CORAM: HONOURABLE MR. JUSTICE SANDEEP KUMAR
ORAL ORDER

4 20-02-2023 Heard learned counsel for the petitioner and learned counsel appearing on behalf of the State. No one appeared on behalf of the opposite party No. 2.

Learned counsel for the petitioner is permitted to remove defect(s), as pointed out by the office, if any, within a period of four weeks from today.

The present case was earlier heard on 16.02.2023. On that date, learned counsel appearing for the opposite party No. 2 had submitted that they will bring before this Court the details of the application filed for setting aside the *ex parte* decree in Cr. Misc. No. 700 of 2009.

This petition has been filed for quashing the order dated 25.08.2014 passed by the learned Sub-divisional Judicial Magistrate, Dehri-on-Sone in G.R. No. 237 of 2012/T.R. 1606



of 2014 arising out of Dehri Nagar P.S. Case No. 294 of 2012 taking cognizance with for the offences under Sections 498(A)/34 of the Indian Penal Code and Section 3/4 of the Dowry Prohibition Act.

The prosecution story in short is that the petitioner was married with opposite party No. 2 in April, 2008 and cash of rupees 10 lakh, a car and other valuable items were given at the time of marriage, but soon after the marriage, the petitioner along with his family members started demanding rupees five lakhs and a vehicle and due to non-fulfillment of the demand of dowry, she was subjected to tortured and harassment and ask for her signature to marry another lady. It is further alleged that on 27.02.2012, the informant's husband (petitioner) along with his father, sister and brother fled away and are residing somewhere in Patna and always come to threaten her. Hence, the informant requested for legal action.

The short argument advanced by learned counsel for the petitioner is that he had got a divorce on 6th of August, 2011 in Matrimonial Case No. 700 of 2009.

The order passed by the Principal Judge, Family Court, Patna and the present F.I.R. has been filed as a counter blast to the divorce order on 21.06.2012 making false



allegations. It is an admitted position that the petitioner is not staying with the opposite party No. 2 since 2009 and the allegations levelled against the petitioners are *mala fide* only to wreck vengeance upon the petitioner and his family members. Moreover, in the F.I.R., the informant says that she was ousted from the house on 27.02.2012 whereas the divorce decree has been passed in the year 2011.

In these circumstances, the prosecution of the petitioner is nothing, but an abuse of the process of the Court.

In view of the above, the present application is allowed.

Accordingly, the quashing order taking cognizance dated 25.08.2014 passed by the learned Sub-divisional Judicial Magistrate, Dehri-on-Sone in G.R. No. 237 of 2012/T.R. 1606 of 2014 arising out of Dehri Nagar Police Station Case No. 294 of 2012 dated 21.06.2012 registered under Sections 498(A), 34 of the Indian Penal Code and Section 3/4 of the Dowry Prohibition Act is hereby quashed.

(Sandeep Kumar, J)

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