

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.22578 of 2017

Arising Out of PS. Case No.-17 Year-2016 Thana- BUDDHACOLONY District- Patna

Manoj Kumar @ Manoj Kumar Yadav S/o Late Ram Murti Yadav @ Late Ram Murti Rai residents of Dujra Devi Asthan, in front of Gate No. 15, P.O. G.P.O., P.S. Budha Colony, District Patna and practicing advocate in the High Court of Judicature at Patna.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Manoj Kumar @ Manoj Kumar Yadav, (In Person)

For the Opposite Party/s : Mr. Sadanand Paswan, Spl.P.P.

CORAM: HONOURABLE MR. JUSTICE SATYAVRAT VERMA
ORAL ORDER

2 05-10-2023 Heard the petitioner (In Person) and learned Special Public Prosecutor for the State.

2. No one appears on behalf of the informant/opposite party no. 2. The case was taken up on 26.09.2023 on that date also none had appeared on behalf of the opposite party no. 2, thereafter again the case was taken up on 03.10.2023 but none had appeared on behalf of the opposite party no. 2 but inadvertently in the order dated 03.10.2023 it was recorded that no one appears on behalf of the petitioner.

3. The order dated 03.10.2023 is modified to read as “today again no one appeared on behalf of the opposite party no. 2”.

4. The present application has been filed seeking quashing of the order dated 31.08.2016 passed by Mrs. Ritu



Kumari, learned Judicial Magistrate, 1st Class, Patna in Buddha Colony P.S. Case No. 17 of 2016 whereby cognizance of the offences has been taken against the petitioner under Sections 341, 323, 379, 498A, 504, 506/34 of the Indian Penal Code, Sections 3(i)(x) of the SC/ST (Prevention of Atrocities) Act and Sections 3 and 4 of the Dowry Prohibition Act.

5. The petitioner submits that he is the elder brother-in-law of the opposite party no. 2 and the informant alleges that she belongs to scheduled caste and was married to Sunil Kumar on 28.11.2013, at the time of marriage an amount of Rs.3 lakhs along with jewellery and household articles were given but the in-laws of the informant after marriage started demanding dowry of Rs.3 lakhs and on non-fulfillment of the same she was assaulted and tortured both mentally and physically and even attempts were made to kill her. It is next alleged that her mother-in-law and husband abused her by taking her caste name and sister-in-law (wife of younger brother of the husband of the opposite party no. 2), her mother-in-law and sister-in-law snatched her jewellery.

6. The petitioner submits that from bare perusal of the allegation as alleged in the FIR, it would manifest that no specific allegation is alleged against the petitioner. It is further



submitted that whenever any dispute arises in between the husband and the wife, the entire family members are implicated in a mechanical manner. It is next submitted that though in the FIR, it is alleged that after marriage, dowry of Rs.3 lakhs was being demanded but then the informant has concealed the fact that the marriage of the opposite party no. 2 with Sunil Kumar was a love marriage. It is further submitted that when his brother had married to opposite party no. 2 out of love where was the question of demand of dowry. It is next submitted that even at the time of marriage, there were some resistance from both sides of the family but later the family agreed seeing the undying love of Sunil Kumar to opposite party no. 2 and thereafter the marriage was performed. It is further submitted that even presuming what has been alleged is true without admitting then from the allegation as alleged in the FIR, it would manifest that the allegation against the petitioner is general and omnibus in nature.

7. The petitioner next relies on an order dated 15.09.2010 in Cr. Misc. No. 15719 of 2006 (Deepak Kumar Deep & Others Versus The State of Bihar & Another) wherein this Hon'ble Court in similar circumstance was pleased to quash the order of cognizance placing reliance on an order of the



Hon'ble Supreme Court in the case of **Preeti Gupta & Anr vs State of Jharkhand & Anr** reported in **2010(7) SCC 767** wherein at para 30, the Hon'ble Supreme Court had recorded that:-

“30. It is a matter of common experience that most of these complaints under section 498-A IPC are filed in the heat of the moment over trivial issues without proper deliberations. We come across a large number of such complaints which are not even bona fide and are filed with oblique motive. At the same time, rapid increase in the number of genuine cases of dowry harassment are also a matter of serious concern.

8. Thereafter at para 35, it was recorded that:-

“35. The criminal trials lead to immense sufferings for all concerned. Even ultimate acquittal in the trial may also not be able to wipe out the deep scars of suffering of ignominy. Unfortunately a large number of these complaints have not only flooded the courts but also have led to enormous social unrest affecting peace, harmony and happiness of the society.”



9. The petitioner, thus, at the cost of repetition submits that he being brother of the husband of the opposite party no. 2 has been falsely implicated with general and omnibus allegation.

10. Learned Special Public Prosecutor opposes this application.

11. After considering the submission made by the petitioner, the order dated 31.08.2016, passed by Mrs. Ritu Kumari, learned Judicial Magistrate, 1st Class, Patna, in Buddha Colony P.S. Case No. 17 of 2016, whereby cognizance of the offences has been taken against the petitioner under Sections 341, 323, 379, 498A, 504, 506/34 of the Indian Penal Code, Sections 3(i)(x) of the SC/ST (Prevention of Atrocities) Act and Sections 3 and 4 of the Dowry Prohibition Act, is hereby quashed.

12. Accordingly, this application is allowed.

(Satyavrat Verma, J)

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