

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.8864 of 2024

Arising Out of PS. Case No.-324 Year-2018 Thana- PATNA COMPLAINT CASE District-
Patna

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Saraswati Devi, W/o Late Rama Chaudhary, R/o Mogalpur, Lala toli, Patna
City, P.S. - Khajekalan, P.O. - Jhauganj, Patna, Bihar-800008

... .. Petitioner/s

Versus

1. The State of Bihar
2. Sunita Devi, D/o Gandhi Chaudhary, R/o Bahri Begampur, Sidhe Bazaar,
P.S. - Bypass Thana, P.O. - Jhauganj , Patna City, District- Patna, Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Md Azim Uddin, Advocate
Mr. Sunil Kumar Singh, Advocate
For the Opposite Party/s : Mr. Satya Nand Shukla, APP

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CORAM: HONOURABLE MR. JUSTICE PARTHA SARTHY
ORAL ORDER

2 06-05-2024 1. Heard learned counsel for the petitioner and learned
APP for the State.

2. The petitioner has filed the instant application
praying for quashing the order dated 26.11.2018 passed in
Complaint Application no.324 of 2018 whereby the learned Sub
Divisional Judicial Magistrate, Patna City was pleased to hold
that *prima facie* case under under section 498A of the Indian
Penal Code and section 4 of the Dowry Prohibition Act was
made out against the petitioner.

3. Learned counsel for the petitioner submits that a
complaint case was filed by the opposite party no.2 which was
registered as CIS no.324 of 2018 making false and frivolous



allegations against the petitioner and others therein, the petitioner being the mother-in-law of the opposite party no.2. It was submitted that in course of enquiry witnesses Gandhi Chaudhari and Sita Devi who happen to be father and mother of the opposite party no.2 were examined as enquiry witnesses in support of the complaint in addition to the complainant opposite party no.2 herself whose statement was recorded under solemn affirmation. By order dated 26.11.2018, cognizance was taken under section 498A of the Indian Penal Code and section 4 of the Dowry Prohibition Act.

4. Learned counsel appearing for the petitioner submits that the petitioner has been falsely implicated in the case only for the reason that she happens to be the mother-in-law of the opposite party no.2. The son of the petitioner who happens to be the husband of the complainant does the work of painter. The family of the petitioner is extremely poor. She is a lady who happens to be aged about 76 years and carries out her livelihood by doing menial service. Learned counsel for the petitioner referring to the statement of the witness Sita Devi ie the mother of the opposite party no.2 submits that she has categorically accepted therein that the opposite party no.2 has been living with her since long. About 2 years ago she married



one another person Raja Kumar from whom she also has a child. It is an admitted case that no divorce has taken place between the opposite party no.2 and the son of the petitioner. Thus, it is submitted that from the facts of the case it would be evident that the instant complaint has been filed for oblique reasons with false and frivolous allegations levelled against the petitioner and others only to harass them.

5. Having heard learned counsel for the parties and having perused the contents of the petition it transpires that the above mentioned complaint was filed by the opposite party no.2 on 5.4.2018 in the Court of learned Chief Judicial Magistrate, Patna City stating therein that the opposite party no.2 was married to the son of the petitioner on 13.5.2011 as per Hindu rites and customs. It is stated therein that various articles by way of gifts etc. was given by the father of the opposite party no.2. Soon after the marriage, the mother-in-law of the opposite party no.2 ie the petitioner here as also the other members of her in-law's family started to torture her making further demand of Rs.1 lac from her father. She was forced to leave the house and was warned that she would not be permitted to enter until she got Rs.50,000/-. Her husband also used to assault and abuse her. It may further be noted that the complainant was examined in



support of her complaint. In her statement under solemn affirmation recorded in course of enquiry, the complainant supported the allegations in the complaint. The other witnesses examined also supported the allegations levelled therein. Having perused the material on record, the learned Sub Divisional Judicial Magistrate, Patna City by order dated 26.11.2018 was pleased to take cognizance for the offence under section 498A of the Indian Penal Code and section 4 of the Dowry Prohibition Act.

6. Having perused the material on record, the contents of the petition, statement of the complainant and the witnesses recorded in course of enquiry, the Court finds that the complainant has made out a *prima facie* case against the petitioner. No case has been made out by the petitioner for interference in the order taking cognizance passed by the learned trial Court. The Court finds no merit in the instant application.

7. The application is dismissed.

(Partha Sarthy, J)

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