

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.10335 of 2022

Arising Out of PS. Case No.-164 Year-2014 Thana- MUNGER COMPLAINT CASE
District- Munger

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1. Suman Kumar, Son of Suresh Prasad Sah Resident of Village - Ramla, P.S. - Godda, District - Godda (Jharkhand).
 2. Suresh Prasad Sah, Son of Late Kanti Sah Resident of Village - Ramla, P.S. - Godda, District - Godda (Jharkhand).
 3. Sindhu Devi, Wife of Suresh Prasad Sah Resident of Village - Ramla, P.S. - Godda, District - Godda (Jharkhand).
 4. Rani Devi, Daughter of Suresh Prasad Sah, Wife of Devkant Mandal @ Banti Master Resident of Village - Ramla, P.S. - Godda, District - Godda (Jharkhand).
 5. Devkant Mandal @ Banti Master Son of Late Lal Mohan Mandal Resident of Village and P.O. and P.S. - Hansdiha, District- Dumka, Jharkhand.

... .. Petitioner/s

Versus

1. The State of Bihar
2. Barkha Kumari, wife of Suman Kumar, daughter of Saudagar Sah, Resident of Village - Sadar Bazar PS- Khalasi Mohalla, PS- Jamalpur, District- Munger

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. Jyoti Ranjan Jha, Advocate Mr. Dhananjai Kumar Singh, Advocate
For the Opposite Party/s	:	Mr. Ram Anurag Singh, APP Mr. Baidya Nath Thakur, Advocate

CORAM: HONOURABLE MR. JUSTICE PARTHA SARTHY
C.A.V JUDGMENT

Date : 04-07-2024

1. Heard learned counsel for the petitioners, learned APP for the State and learned counsel for the opposite party no.2.

2. The instant application has been preferred by the petitioners praying for quashing the order dated 4.1.2022 passed in connection with Trial no. 1061 of 2020 (arising out of



Complaint Case no. 164 of 2014) by the learned Judicial Magistrate, 1st Class, Munger whereby he was pleased to reject the discharge petition filed by the petitioners under section 245 of the Criminal Procedure Code.

3. The prosecution case as per the contents of the petition of complaint filed by the complainant- opposite party no.2 on 4.3.2014 in the Court of learned Chief Judicial Magistrate, Munger was to the effect that she was married to the petitioner no.1 as per Hindu rites and customs on 23.11.2010. Various gifts including gold and silver ornaments, motorcycle etc were given at the time of marriage. The complainant was later taken from her *sasural* to her parent's place but was not permitted by the accused persons to take her articles. On some pretext or the other, the petitioners used to keep taking Rs. 10,000/15,000 at different times. On the complainant not wanting to give the amount, she was abused. The complainant states that she was physically and mentally tortured by the accused persons as also abused and assaulted by the petitioner no.1 and others for demand of Rs. 2 lakhs. On her falling ill, the expense of her treatment had to be borne by her parents. On further torture, her parents were forced to purchase a piece of land measuring an area of one *katha* in Jamalpur. The



accused compelled her to give the documents for the purchased land and on her not giving the same, she was abused and assaulted by the petitioner no.1 as also his brother in law.

4. On the statement of the opposite party no.2, Complaint Case no. 164C of 2014 was registered in the Court of learned Chief Judicial Magistrate, Munger under sections 147, 149, 323, 452, 498A, 504, 380 and 34 of the Indian Penal Code.

5. The statement of the complainant as also three other witnesses were recorded in course of inquiry. By order dated 21.5.2014, the learned Judicial Magistrate 1st Class, Munger was pleased to hold that *prima facie* case under section 498A of the Indian Penal Code is made out against the accused persons.

6. Subsequently, the statement of the witnesses Saudagar Sah and Meena Devi were recorded in evidence before charge.

7. The petitioner filed an application under section 245 of the Cr.P.C on 13.8.2021 praying that he be discharged from the case. By order dated 4.1.2022 passed in Complaint Case no. 164 of 2014, the learned Judicial Magistrate 1st Class, Munger was pleased to dismiss the petition filed by the accused persons and it is against this order dated 4.1.2022 that the



instant application has been filed.

8. It is the case of the petitioners in the discharge petition that only two witnesses have been examined on behalf of the prosecution in the evidence before charge and the complainant has not examined herself. The complainant does not want to reside with the petitioner no.1 and the instant case has been lodged by her only to harass the petitioners. The petitioner no.1 has always been ready to keep his wife with him but the complainant is not ready and wants divorce. As no offence is made out against the petitioners on the basis of the material that has come in the evidence before charge and the complainant wants divorce against the petitioner no.1, it is prayed that his application under section 245 Cr.P.C be allowed and the petitioners be discharged.

9. The application is opposed by learned APP appearing for the State and learned counsel appearing for the opposite party no.2. Learned counsel for the opposite party no.2 submits that *prima facie* case is made out both on perusal of the complaint as also on going through the evidence before charge wherein the statement of the two witnesses have been recorded. It is submitted that the opposite party no.2 has not filed any divorce case till today. Further in reference to section 244 of the



Cr.P.C read with the judgment of the Hon'ble Supreme Court in the case of Ajoy Kumar Ghose vs. State of Jharkhand & Anr; (2009) 14 SCC 115, it is submitted that there is no requirement of the complainant to be examined for framing of charge against the accused persons.

10. Having heard learned counsel for the parties and having perused the material on record, it transpires from perusal of the contents of the complaint petition that not only the petitioner no.1, who happens to be the husband of the complainant is named in the complaint petition but there is direct allegation against him as also all other petitioners of having physically and mentally tortured the complainant. Further from perusal of the contents of the evidence of the two witnesses before charge, it may be mentioned that the said two witnesses happen to be the father and mother of the complainant. They have categorically and in detail supported the allegations as levelled in the complaint against the accused persons including the petitioners herein.

11. In view of the facts and circumstances of the case, the contents of the complaint petition as also the statement of the witnesses examined in evidence before charge, the Court finds that the petitioners have not made out any case in their



petition under section 245 of the Cr.P.C for discharge from the instant case.

12. The Court finds no merit in the instant application and the same is dismissed.

(Partha Sarthy, J)

Shiv/-

AFR/NAFR	
CAV DATE	06.05.2024
Uploading Date	04.07.2024
Transmission Date	

