

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.19458 of 2024

Arising Out of PS. Case No.-44 Year-2017 Thana- MAHILA P.S. District- Patna

RAMBABU PRASAD Son of Late Bacha Lal Prasad Resident of Village-
Chauarado, Bhelwa, P.S.-Chauradano, Dist.-East Champaran.

... .. Petitioner/s

Versus

1. The State of Bihar
2. BHAGWATI KUMARI Daughter of Late Rampreet Mahto Resident of
Village-Panchrukhi Bela, P.S.-Samastipur, Dist.-Samastipur.

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Chandra Mohan Jha

For the Opposite Party/s : Mr. Jharkhandi Upadhyay

CORAM: HONOURABLE MR. JUSTICE SANDEEP KUMAR
ORAL ORDER

5 30-09-2024 Heard learned counsel for the petitioner and learned
counsel appearing on behalf of the State.

2. The opposite party No. 2 was not issued notice as it
was submitted by the learned counsel for the petitioner that the
opposite party No. 2 has died. This fact has come in paragraph
No. 34 of the case diary.

3. I have considered the submission of the petitioner
and the learned Additional Public Prosecutor for the State.

4. This application has been filed for quashing the
order of cognizance dated- 13/10/2017 passed by the Judicial
Magistrate 1st Class, Patna in connection with Gr. No.- 4474 of
2017 arising out of Mahila P.S. Case no. 44 of 2017 under



Section 379, 494, 498A, 34 of Indian Penal Code whereby and whereunder cognizance has been taken under Sections 379, 494, 498A, 34 of Indian Penal Code.

5. The prosecution story in short is that informant (O.P.2) lodged an FIR before the Mahila police station, Patna vide Mahila P.S.Case no.- 44 of 2017 on 12/07/2017 against the named accused petitioner that the Informant cum O.P.2 namely Bhagwati Kumari was working in Aurangabad as a constable and at present she is under training at Dehri-on-sone. She is married to the petitioner on 07/06/2016. After marriage, both the parties lived together in Patna for one year. The O.P.2 also stayed at her Sasural Chauradano for some days and she became pregnant. She alleged that her husband petitioner has performed second marriage and when she came to know this fact, she complained to the SHO, Chauradano police station and the husband-petitioner was called to settle the matter and the petitioner was ready to take his wife to Patna. She further alleged that on 08/06/2017 at night her husband along with one unknown person took her to Motihari bus-stand and threatened to kill her and took her I D card, aadhar card and other valuable belongings along with jewellery worth of Rs.2 lakhs. Due to inter caste marriage, her in-laws hated her and married the



petitioner to one Vibha Kumari. On the basis of the aforesaid written statement, Patna Mahila P.S. Case no.- 44 of 2017 dated- 12/07/2017 under Section 498A, 494, 379, 34 of Indian Penal Code was registered.

6. Learned counsel for the petitioner submits that the allegation that the petitioner is the husband of the informant is totally false and baseless. The informant is a married lady and her marriage was solemnized with one Sujeet Mahto son of Ram Sagar Mahto Resident of village Panchrukhi P.O. Ratanpur Bela via Biroali Dist- Samastipur and she has two minor children out of the said wedlock.

7. It is further submitted that during the course of investigation, the father of the informant namely Ramjanam Mahto clearly stated before the police that his daughter namely Bhagwati Kumari is married with Sujeet Mahto and she has two minor children out of the said wedlock.

8. It is submitted that the informant deserted her husband after joining of police service and she wanted to marry with the petitioner when the petitioner flatly refused to marry with her then the informant concocted a false story and the lodged the F.I.R. against him. Thereafter, the petitioner was arrested and sent to custody.



9. During investigation, in paragraph No. 28, Ram Sagar Mahto, the father-in-law of the informant Bhagwati Kumari was examined. He has said that Bhagwati Kumari was his daughter-in-law and she has two children. Her husband who is the son of Ram Sagar Mahto was working in Delhi and the daughter was staying in her Maika and son of the informant was staying with Ram Sangar Mahto, his grandfather.

10. It appears to be a case of live-in relationship and the informant in the F.I.R. has given a false statement that she was unmarried and she has not disclosed her husband's name. Moreover, the informant is already dead.

11. Considering the aforesaid, the prosecution of the petitioner even if is continuing will not result in any conviction as there is no material against the petitioner except the statement of the informant who is now dead.

12. In am of the opinion, even if the statement is taken to be true, no case is made out as the informant is not the legally wedded wife of the petitioner.

13. This application is allowed.

14. The order dated 13/10/2017 passed by the Judicial Magistrate 1st Class, Patna in connection with Gr. No.- 4474 of 2017 arising out of Mahila P.S. Case No. 44 of 2017



under Section 379, 494, 498A, 34 of the Indian Penal Code including the entire prosecution launched against the petitioner is hereby quashed.

(Sandeep Kumar, J)

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