

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.25039 of 2023

Arising Out of PS. Case No.-206 Year-2022 Thana- BIKRAM District- Patna

Sonu Kumar Son Of Masudan Pandit Resident Of Village - Danara, P.S. -
Bikram, Distt. - Patna

... .. Petitioner/s

Versus

1. The State of Bihar
2. Kanchan Kumari Wife Of Sonu Kumar Resident Of Village - Dharmdiha,
P.S. - Barahat, Distt. - Banka. At Present Village - Danara, P.S. - Bikram,
Distt. - Patna

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Jay Ram Prasad
For the Opposite Party/s : Mr.Arun Kumar

CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR SINGH
ORAL ORDER

2 01-04-2024 Heard learned counsel for the petitioners and learned
A.P.P. for the State.

2. This petition has been filed under Section 482 of the Code of Criminal Procedure for quashing the order dated 10.02.2023 passed in Sessions Trial No. 1435 of 2022, arising out of Bikram P.S. Case No. 206 of 2022, by the learned Additional District & Sessions Judge-I, Danapur (Patna) whereby the application filed under Section 227 of the Cr.P.C. for discharge of petitioner has been rejected.

3. Learned counsel for the petitioner submits that petitioner is innocent and has committed no offence, as alleged in the F.I.R., but has been falsely implicated in this case merely



because he happens to be husband of the opposite party no. 2. During course of investigation, several witnesses have been examined by the I.O. and none of them supported the prosecution case and as such, no offence is made out against this petitioner. He further submits that as a matter of fact, opposite party no. 2 has earlier filed a complaint, vide Complaint Case No. 1349 of 2018, before the learned Chief Judicial Magistrate, Banka, which was transferred in the court of learned S.D.J.M., Banka, who after proper examination of opposite party no. 2, took cognizance on 02.07.2019 under Section 498A of the Indian Penal Code and Section 4 of the Dowry Prohibition Act. As a matter of fact, the opposite party no. 2 is a working woman and works in a hospital at Patna, as Nurse, whereas petitioner is a government servant and his place of posting is at Buxar and therefore, the opposite party no. 2 does not want to live with petitioner. Hence, no offence is made out against this petitioner. On aforesaid grounds, learned counsel for the petitioner submits that the impugned order passed by the learned Court below is bad in law and fit to be quashed.

4. Learned A.P.P. for the State, while supporting the impugned order, submits that at the stage of framing of charge, the learned Court below is only required to evaluate the material



and documents on record with a view to find out the existence of all the ingredients. At this stage, there is no need to evaluate the sufficiency of evidence to convict the accused and as such, this petition is devoid of merit and fit to be rejected.

5. Heard learned counsel for the parties. From perusal of the F.I.R., it is apparent that there is specific allegation against this petitioner and his family members that due to non-fulfillment of demand of dowry, informant was subjected to torture and harassment, for which, Complaint Case No. 1349 of 2018 was filed in the Court below and thereafter, petitioner and his family members agreed to keep the opposite party no. 2 with honour and respect, however; again to put pressure on opposite party no. 2 to withdraw the earlier filed complaint case, the accused persons assaulted informant and this petitioner assaulted by means of lathi on the head of opposite party no. 2, which hit on her hand. In the case diary also, the mother and sister of opposite party no. 2 have supported the case.

6. The points raised on behalf of the petitioner are in the realm of defence, which cannot be looked at this stage. The Hon'ble Supreme Court, in the case of ***M. E. Shivalingamurthy vs Central Bureau of Investigation***, reported in ***2020 (2) S.C.C. 768***, has held that the defence of an accused person cannot be



considered at the stage where the accused person wants to be released under Section 227 of the Cr.P.C.

7. Considering the facts and circumstances of this case and the law laid down by the Hon’ble Supreme Court in aforesaid case (supra), this petition is without any merit and is, accordingly, dismissed.

(Prabhat Kumar Singh, J)

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