

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL REVISION No.851 of 2019

Arising Out of PS. Case No.-825 Year-2016 Thana- NAWADAH COMPLAINT CASE
District- Nawada

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1. Dharmendra Kumar Kaushal, Son Of Sri Munni Mahto Resident Of Mohalla-Kunti Niwas, Subhash Chowk Tetulmari, District-Dhanbad, State-Jharkhand.
 2. Munni Mahto, Son of Late Aandhi Mahto Resident of Mohalla-Kunti Niwas, Subhash Chowk Tetulmari, District-Dhanbad, State-Jharkhand.
 3. Kunti Devi, Wife of Munni Mahto Resident of Mohalla-Kunti Niwas, Subhash Chowk Tetulmari, District-Dhanbad, State-Jharkhand.

... .. Petitioner/s

Versus

1. The State of Bihar
2. Madhu Bharti, Wife of Dharmendra Kumar Kaushal Present Address, Father-Vijay Mahto, Village-Laund, P.S.-Sirdalla, District-Nawada, State-Bihar.

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr. Sunil Kumar Singh No.10, Advocate
For the Respondent/s : Ms. Anita Kumari Singh, APP

CORAM: HONOURABLE MR. JUSTICE BIBEK CHAUDHURI
ORAL ORDER

6 06-02-2024 1. It is submitted by the learned Advocate for the petitioner that the Petitioner No. 1 is the husband while the Petitioner Nos. 2 and 3 are the father-in-law and mother-in-law of the Opposite Party No. 2. On the basis of a written complaint, submitted by the Opposite Party No. 2, a complaint case was lodged being Complaint Case No. 825 of 2016 under Sections 323, 504, 498A, 307, 406, 467 and 468 of the IPC read with Sections 3 and 4 of the Dowry Prohibition Act was instituted on 26/27 of May, 2019.



2. The petitioners, being the accused persons, filed an application under Section 245 of the Cr.P.C., praying for their discharge. The said application, dated 3rd of April, 2019, was rejected by the Trial Court on 26th of May of 2019.

3. Section 245 of the Cr.P.C. runs thus:-

“245. When accused shall be discharged.—(1) If, upon taking all the evidence referred to in section 244, the Magistrate considers, for reasons to be recorded, that no case against the accused has been made out which, if unrebutted, would warrant his conviction, the Magistrate shall discharge him.

(2) Nothing in this section shall be deemed to prevent a Magistrate from discharging the accused at any previous stage of the case if, for reasons to be recorded by such Magistrate, he considers the charge to be groundless.”

4. Thus, in connection with the cases instituted otherwise than on Police report, the accused may be discharged if upon recording evidence under Section 244 of the Cr.P.C., the Court does not find any material against the accused being made out. In the instant case, the Trial Court finds material against the petitioner for consideration of charge and refused the prayer for discharge filed by the petitioners under Section 245 of the Cr.P.C. by passing the impugned order.

5. It is submitted by the learned Advocate for the



petitioner that the Trial Court may be directed to take appropriate step for reconciliation of the dispute on the ground that the petitioners are willing to keep the Opposite Party No. 2 with due dignity and honour at her material home.

6. The learned Advocate for the complainant/Opposite Party No. 2, on the other hand, submits that the petitioner no. 1, who happens to be the husband of the Opposite Party No. 2, has solemnized second marriage during the subsistence his first marriage with the Opposite Party No. 2. The lady to whom the Petitioner No. 1 has married, has handed over a marriage invitation card to the Opposite Party No. 2.

7. Marrying a lady for the second time by a person governed under Hindu Marriage Act is itself an act of cruelty to the first wife whose marriage is still subsisting.

8. For the reasons stated above, this Court is not in a position to accept the submission made by the learned Advocate for the petitioners.

9. The Instant Criminal Revision is accordingly dismissed.

(Bibek Chaudhuri, J)

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