

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.52840 of 2023

Arising Out of PS. Case No.-221 Year-2022 Thana- GAYA COMPLAINT CASE District-
Gaya

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RAJ KUMAR @ RAJ KUMAR SAW Son of Rajendra Prasad Sao
RESIDENT OF VILL BASPIPARA, POST BASPIPARA, PS FATEHPUR,
DISTRICT GAYA, BIHAR

... .. Petitioner/s

Versus

1. STATE OF BIHAR
2. Suman Kumari @ Shivani Kumari D/o Ramfal Sao R/o Sakin - Neema Tola,
Buniyaad Vigaha, P.O. - Bhadaiya, P.S. - Barachatti, Distt. - Gaya, Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s	:	Mr. Dayanand Singh, Advocate
For the State	:	Dr. Ajeet Kumar, APP
For the O.P.no.2	:	Mr. Ashok Kumar, Advocate

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

6 05-07-2024 1. Heard learned counsel for the petitioner, learned

APP for the State and learned counsel for the opposite party

no.2.

2. The instant application has been filed praying for

quashing the order dated 23.7.2022 passed in Complaint Case
no.221 of 2022 whereby the learned Sub Divisional Judicial
Magistrate, Sherghati was pleased to take cognizance under
sections 498A, 323, 504 and 34 of the Indian Penal Code and
section 4 of the Dowry Prohibition Act.

3. The prosecution case, as per the complaint filed by

the opposite party no.2 on 20.4.2022 in the Court of the learned



Additional Chief Judicial Magistrate, Sherghati, Gaya, is that the opposite party no.2 was married to the petitioner as per Hindu rites and customs on 23.4.2021. The father of the opposite party no.2 gave an amount of Rs.6 lacs in cash, gold and silver ornaments besides other articles as mentioned in the complaint. The complainant states that the accused persons kept her well for sometime but soon thereafter they started to abuse, assault and cast aspersion on the members of her family. She was threatened that in case a four-wheeled car was not given, they would marry her husband once again. She was assaulted and beaten up on 10.4.2022 and the accused persons abusing her, forced her out of her sasural. As a result of the assault, the opposite party no.2 who was in the family way aborted. As the police officials refused to register the F.I.R., as such, the complaint was filed.

4. The complaint filed by the opposite party no.2 was registered as Complaint Case no.22 of 2022. The statements of the complainant as also the witnesses Sharmila Devi, Ramphal Saw, Neeraj Kumar and Ashok Thakur were recorded in support of the complaint. By order dated 23.7.2022, the learned Sub Divisional Judicial Magistrate, Sherghati was pleased to hold that prima facie case under sections 498A, 323, 504 and 34 of



the Indian Penal Code and section 4 of the Dowry Prohibition Act is made out against the accused persons including the petitioner herein. It is against this order dated 23.7.2022 that the instant application has been preferred.

5. It is submitted by learned counsel for the petitioner that the allegations levelled in the complaint are general and omnibus in nature with neither any date nor any details of the incident given. It is further submitted that an informatory petition being Case no.1183 of 2022 was filed by the petitioner before the learned Chief Judicial Magistrate, Gaya apprehending false implication by the opposite party no.2 and the members of her family. Further the petitioner has filed matrimonial suit being Matrimonial Case no.39 of 2023 in the Court of the learned Principal Judge, Family Court, Gaya praying for restitution of conjugal rights. Even today, the petitioner is ready to reside with the opposite party no.2 and to settle the matter amicably and to bring an end to all disputes. It is submitted that in the facts of the case, the allegations levelled against the petitioner in the complaint petition are illegal, malafide and malicious and have been made to harass the petitioner. The order impugned be quashed.

6. The application is opposed by learned APP for the



State and learned counsel appearing for the opposite party no.2. Learned counsel for the opposite party no.2 submits that not only the petitioner happens to be the husband of the opposite party no.2, he is named in the complaint and there is direct allegation against him. The allegations levelled in the complaint have been fully supported by the witnesses whose statements have been recorded in course of enquiry. The witnesses also include an independent witness. It is submitted that the learned Court below has rightly taken cognizance in the case. There is no merit in the instant application and the same be dismissed.

7. Having heard learned counsel for the parties and having perused the material on record, this Court finds that the petitioner, who happens to be the husband of the complainant-opposite party no.2, is not only named in the complaint but direct allegations have been levelled against him of demand of dowry, assault as also having carried out the physical and mental torture of the opposite party no.2. The allegations have been supported by the witnesses examined in course of enquiry.

8. In the facts and circumstances of the case, taking into consideration the contents of the complaint petition, the statement of the complainant and the witnesses recorded on solemn affirmation, this Court finds that prima facie case is



made out against the petitioner and the learned trial Court rightly took cognizance in the case. Learned counsel for the petitioner has neither pointed out any illegality in the order impugned nor has made out any case for interference by this Court.

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

(Partha Sarthy, J)

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