

IN THE HIGH COURT OF JUDICATURE AT PATNA

CRIMINAL MISCELLANEOUS No.15700 of 2017

Arising Out of PS. Case No.-161 Year-2016 Thana- SHEKHPURA COMPLAINT CASE
District- Sheikhpura

Rajendra Pd. Sharma Son of Late Ram Janam Singh, Resident of Village-
Munjhar Tola Bala Bigha, P.S.- Hanspura District- Aurangabad.

... .. Petitioner/s

Versus

1. State Of Bihar
2. Rashmi Kumari @ Rashim Kumari, D/o Ramanuj Singh, Resident of
Village- Subhanpur, P.S.- Jayrampur District- Sheikhpura, At present
residing at Mohalla- Marwari, P.S.- Sheikhpura, District- Sheikhpura.

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Sharda Nand Mishra
For the Opposite Party/s : Mr. Navin Kr. Pandey, APP

CORAM: HONOURABLE MR. JUSTICE CHANDRA SHEKHAR JHA
ORAL JUDGMENT

Date : 26-06-2024

Heard learned counsel appearing for the parties.

2. This is an application for quashing the order dated 16.06.2016 passed in compliant case no 161(c) of 2016 passed by learned Sub Divisional Judicial Magistrate, Sheikhpura where cognizance for the offence punishable under section 498(A) of Indian penal code and Section 3/4 of Dowry Prohibition Act, was taken against petitioner.

3. The crux of allegation as it appears from the face of complaint as filed by O.P. No. 2/informant that her marriage was solemnized with the son of the petitioner namely Ravishankar on 21.04.2014. After joining



matrimonial home at Dhanbad she was tortured regularly for demand of dowry as raised for cash, some time for Rs. 10,00,000/- (Rupees Ten Lakh), and some time for Rs. 5,00,000/- (Rupees Five Lakh), due to non-fulfillment of aforesaid demands of dowry she was finally ousted from her matrimonial home after assaulting her physically.

4. It is submitted by the learned counsel for the petitioner that the petitioner is father-in-law and living separately much prior to the occurrence with O.P. No. 2 and her husband and as such having no connection with their daily and domestic affair.

5. It is pointed out that allegation of cruelty, qua, demand of dowry against petitioner is general and omnibus, where thrust of allegation for physical assault and demand of dowry is available against the husband of O.P. No. 2 namely, Ravishankar, who is not the petitioner.

6. It is submitted by learned counsel that the implication of this petitioner appears out of ulterior and oblique motive for the simple reason that he is the father



of the husband of O.P. No. 2 and for the same reason it can be safely said that the present criminal prosecution is nothing but a malicious prosecution and therefore proceedings against the petitioner before the learned trial court deserves to be quashed and set aside.

7. In support of aforesaid submission learned counsel relied upon the report of Hon'ble Supreme Court as reported in the matter of ***Abhishek vs. State of Madhya Pradesh*** as reported in ***2023 SCC OnLine SC 1083.***

8. Learned counsel appearing for Opposite Party No. 2, despite of repeated calls failed to join the present proceeding, while the matter was taken on board.

9. Learned APP for the State opposed the prayer for quashing petition.

10. In view of the aforesaid factual and legal submission and by taking note of the fact that the petitioner is father-in-law of O.P. No. 2, where allegation against the petitioner is general and omnibus, qua,



physical assault and cruelty, where implication *prima-facie* appears out of being father of the husband of the complainant.

11. In view of the aforesaid and by taking guiding note of ***Abhishek case (supra)***, the order of cognizance dated 16.06.2016 with all its consequential proceedings, *qua*, petitioner, arising thereof as passed in connection with Complaint Case No. 161(c) of 2016 pending before the learned Sub-Divisional Judicial Magistrate, Sheikhpura, is hereby quashed and set aside.

12. Hence, this application stands allowed.

13. TCR (Trial Court Records), if any, be returned to learned trial court alongwith the copy of this judgment, forthwith.

(Chandra Shekhar Jha, J)

Sudha/-

AFR/NAFR	NAFR
CAV DATE	
Uploading Date	28.06.2024
Transmission Date	28.06.2024

