

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.53520 of 2022

Arising Out of PS. Case No.-44 Year-2018 Thana- MAHILA P.S. District- Samastipur

PANKAJ KUMAR PODDAR @ PRABHAT KUMAR PANKAJ Son of Shriram Udgar Poddar Resident of Village - Babupur Salkhanni, Police Station - Dalsinghsarai, District- Samastipur.

... .. Petitioner/s

Versus

1. The State of Bihar
2. Kumari Babli Rani Wife of Pankaj Kumar Poddar @ Prabhat Kumar Pankaj, Daughter of Shaym Sunder Poddar Resident of Village and P.O.- Bhairokhara Tajpur, Police Station - Tajpur, District - Samastipur.

... .. Opposite Party/s

Appearance :

For the Petitioner	:	Mr. Achintya Anand, Advocate
For the State	:	Mr. Prem Kumar Jha, APP
For Opposite Party No.2	:	Mr. Mahendra Pratap, Advocate

CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR SINGH
ORAL ORDER

4 28-02-2024 Heard learned counsel for the petitioner, learned A.P.P. for the State and learned counsel for the informant/Opposite Party No.2.

2. This application has been filed under Section 482 of the Code of Criminal Procedure, 1973, on behalf of petitioner for quashing the order dated 25.03.2021 passed by the learned Judicial Magistrate, 1st Class, Samastipur, in G.R. No. 2543 of 2018, arising out of Mahila P.S. Case No. 44 of 2018. By the said order, the learned Magistrate took cognizance of offences punishable under Sections 498A and 34 of the Indian Penal Code and Sections 3 and 4 of the Dowry Prohibition Act,



against all the five accused persons, including this petitioner.

3. The prosecution story in brief is that the informant/Opposite Party No. 2 married with Prabhat Kumar Poddar @ Prabhat Kumar Pandaj (petitioner) on 03.06.2013 according to Hindu rites and rituals after giving cash of Rs. 5,00,000/- and other household articles and ornaments amounting to Rs. 11,00,000/-. It is alleged that after marriage when the informant/Opposite Party No. 2 came to the house of her in laws, she came to know that her husband was a Group-D employee instead of an Engineer. It is further alleged that her husband had a relation with another woman and in order to take heavy amount of dowry, the marriage was solemnized. It is also alleged that thereafter her in-laws started demanding for another Rs. 10,00,000/- and also assaulted her. It is further alleged that brother-in-law of the informant, namely Dewar Diwakar Poddar, tried to molest her and lastly on 26.02.2016, all the accused persons ousted the informant/Opposite Party No. 2.

4. Learned counsel appearing on behalf of the petitioner submits that after thorough investigation, the police submitted final form on 20.03.2019 against all the accused persons, including this petitioner. Thereafter, the learned Judicial Magistrate took cognizance against all the accused



persons for the offences punishable under Sections 498A and 34 of the Indian Penal Code and Sections 3 and 4 of the Dowry Prohibition Act. It is next submitted that the present proceeding is maliciously instituted with ulterior motive, with a view to spite the petitioner due to private and personal grudge. It is next submitted that the petitioner being annoyed with the conduct of the informant/Opposite Party No. 2 and even after notice being issued in Restitution Case No. 210 of 2018, when the Opposite Party No. 2 did not prefer to appear before the learned court for conciliation, petitioner was left with no other option but to file divorce case against the informant/Opposite Party No. 2 which was filed on 16.01.2021 and was registered as Divorce Case No. 20 of 2021 and prior to filing the divorce case, the petitioner also sent a legal notice to the informant/Opposite Party No. 2 on 18.12.2020, which is still pending before the Principal Judge, Family Court, Samastipur, for further proceedings. Thereafter it is stated that after getting the knowledge of the divorce case, family members of the informant/Opposite Party No. 2 assaulted the petitioner with *lathi* and iron rod near Middle School, Motipur, on 06.05.2022 when the petitioner went there to his sister's house and to that effect the petitioner lodged an F.I.R. bearing Tajpur P.S. Case No. 214 of 2022. It is next



submitted that in retaliation to the aforesaid case, the informant/Opposite Party No. 2 lodged a counter F.I.R. against the petitioner on 12.05.2022 bearing Tajpur P.S. Case No. 226 of 2022 alleging therein that the petitioner and his brother, along with others, attacked upon the informant/Opposite Party No. 2 and assaulted her on 06.05.2022 at about 11:35AM when she was leaving the school where she is working. It is next submitted that there are series of cases between the petitioner and informant/Opposite Party No. 2 merely because of ego clash of informant/Opposite Party No. 2. Under the aforesaid facts and circumstances, as mentioned above, it is submitted by learned counsel appearing on behalf of the petitioner that as a matter of fact it is the petitioner and his family members who are being subjected to cruelty and humiliation because of the informant/Opposite Party No. 2. As a matter of fact the informant/Opposite Party No. 2 was was not intended to live with the petitioner and left the house of the petitioner in the year 2014 itself and since then she is living separately and as such, in the aforesaid facts and circumstances, it is urged on behalf of the petitioner that the order of cognizance is bad and is fit to be quashed.

5. On the other hand, learned A.P.P. for the State and



learned counsel appearing on behalf of the informant/Opposite Party No. 2 have vehemently opposed the statements made on behalf of the petitioner and supported the order of cognizance submitting that there is sufficient material on record to take cognizance against the petitioner and other accused persons. It is next submitted that the points raised in the instant petitioner are the defence of the petitioner which can only be looked at the stage of the trial and on these grounds order of cognizance cannot be quashed and as such, no interference is required by this Hon'ble Court at this stage.

6. Having heard the rival submissions advanced on behalf of the parties and from bare perusal of the impugned order, it is apparent that the order of cognizance dated 25.03.2021 has been passed after perusal of the materials available on record and as such, I do not find any illegality in the impugned order. I do find substance in the submission made on behalf of learned A.P.P. for the State and learned counsel for the informant/Opposite Party No. 2 that the grounds which have been taken by the petitioner to assail the order of cognizance are in the realm of probable defence. The defence taken by the petitioner can only be seen at the stage of trial, after adducing evidences on behalf of the parties. At the stage of cognizance,



only the complaint and the materials available on record are to
be taken into consideration.

7. Accordingly, this quashing application is dismissed.

(Prabhat Kumar Singh, J)

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