

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.28903 of 2016

Arising Out of PS. Case No.-329 Year-2006 Thana- BIDUPUR District- Vaishali

Nitin Kumar, S/o Sri Nagehswar Prasad Singh, R/o Village- Raudha, P.S Raja Pakar, District Vaishali, At Hajipur At Present 6/295, Vineet Chand, P.S Gomti Nagar, District Lucknow.

... .. Petitioner

Versus

1. State of Bihar
2. Sheema, D/o Shri Jaleshwar Prasad Singh, R/o Village - Rahimapur, PS. Bidupur, District Vaishali.

... .. Opposite Partys

Appearance :

For the Petitioner	:	Mr. Awadhesh Kumar, Advocate
For the State	:	Mr. Upendra Kumar, State
For the Opposite Party No. 2	:	Mr. Ritesh Kumar Jha, Advocate

CORAM: HONOURABLE MR. JUSTICE JITENDRA KUMAR
ORAL ORDER

14 22-11-2024 The present petition under Section 482 Cr.PC has been preferred against the impugned order dated 15.06.2016 whereby charges have been framed against the Petitioner under Section 498A, 342, 323 and 494 of the Indian Penal Code and under Section 3/4 of the Dowry Prohibition Act.

2. I heard learned counsel for the Petitioner, learned APP for the State and learned counsel for the Opposite Party No.2.

3. Learned counsel for the Petitioner submits that the impugned order is not sustainable in the eye of law because the impugned order is against the principle of fair trial. At the stage of framing of charge, the accused must be given proper and



effective hearing. But the impugned order would show that immediately after supplying the police paper to the accused, charge was framed against the Petitioner/Accused, which shows that there was no time given to the Petitioner for preparation and arguing the matter. Hence, the impugned order is liable to be set aside under Section 482 Cr.PC in the interest of justice.

4. However, learned APP for the State as well as learned counsel for the Opposite Party No.2/Informant submits that the case is 18 years old as the FIR was lodged in the year 2006 and the Petitioner is resorting to delaying tactics to prolong the trial. After cognizance he had preferred a petition under Section 482 Cr.PC before this Court and the same was dismissed and learned Trial Court was directed to dispose of the matter within six months and that is why learned Trial Court has framed the charge on the day of supply of the police paper to the Petitioner. He further submits that after framing of charge, two prosecution witnesses have already been examined and only four other witnesses are yet to be examined.

5. I considered the submissions advanced by both the parties and perused the materials on record.

6. I find that on the day of supply of the police paper to the Petitioner itself, learned Court has framed the charge



without giving opportunity of proper hearing to the Petitioner, which is violation of the Principle of Natural Justice and concept of fair trial. Hence, the impugned order is not sustainable in the eye of law and liable to be set aside.

7. Accordingly, impugned order dated 15.06.2016 passed by learned Judicial Magistrate, Hajipur at Vaishali in connection with Bidupur P.S. Case No.329 of 2006 is set aside and learned Trial Court is directed to hear the matter afresh on the point of framing of charge.

8. In view of the matter being too old, the date of hearing by learned Trial Court on the point of framing of charge is fixed as 09.12.2024 and all the parties concerned are directed to be present there. Thereafter, in case charge is framed, hearing of the case would be done on day to day basis.

9. The petition is disposed of accordingly.

(Jitendra Kumar, J.)

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