

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL REVISION No.1307 of 2019**

Arising Out of PS. Case No.-2890 Year-2014 Thana- SARAN COMPLAINT
CASE District- Saran

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TARAK NATH DUBEY Son of Late Rameshwar Dubey Resident of Village-
Karnamepur, Post- Karnamepur, P.S.- Sahpur, District- Bhojpur (Bihar).

... .. Petitioner/s

Versus

1. The State of Bihar Bihar
2. Suman Dubey Wife of Madhav Krishna Dubey and Daughter of Jamuna Mishra Resident of Village- Karnamepur, Post- Karnamepur, P.S.- Sahpur, District- Bhojpur, Bihar, present- Mokam Quarter No. D/5, Police Line, Chapra, near Ganghi Maidan Chowk, P.S.- Town, District- Saran, Chapra, Bihar.

... .. Respondent/s

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Appearance :

For the Petitioner/s	: Mr. Indradeo Prasad, Adv. Mr. Sunil Kumar Singh No.10, Adv.
For the O.P	: Mr. Ravi Bhushan Prasad Sinha, Adv. : Mr. Prashant Bhushan, Adv.
For the State	: Mrs. Asha Kumar, APP

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CORAM: HONOURABLE MR. JUSTICE BIBEK CHAUDHURI
ORAL ORDER

7 04-03-2024 The instant revision application is directed against

an order passed by the learned Sub-Divisional Judicial

Magistrate, Sarat at Chapra in complaint Case No. 2890 of

2014 on 31.08.2019 rejecting the prayer for discharge of

accused No.2, Taraknath Dubey, who is petitioner herein, on

the ground that no case against the said accused has been

made out which, if unrebutted, would warrant his

conviction.

2. It is evident from the record that in the aforesaid



complaint case, cognizance was taken against the petitioner and the husband of the complainant under Sections 498(A) of the Indian Penal Code (for short I.P.C.). It is also not in dispute that the accused persons are the husband, father-in-law, mother-in-law and sister-in-law of the complainant.

3. As the case under Section 498(A) of the I.P.C. is triable under warrant procedure instituted otherwise than on police report, the complainant, her father and elder brother deposed at the time of evidence before the charge.

4. The petitioner being the father-in-law of the complainant filed application under Section 245 of the Cr.P.C. praying for his discharge on the ground that no case under Section 498(A) of the I.P.C. has been made out against him which, if unrebutted, would warrant his conviction. The said application came up for hearing and vide order dated 31.08.2019, the learned trial Magistrate rejected the application filed on behalf of the present petitioner, who is father-in-law of the complainant. The instant revision application has been filed assailing the aforesaid order dated 31.08.2019.

5. Learned counsel for the petitioner submits before me with reference to the evidence of the complainant,



her father and her mother that from their evidence, it is clear that the complainant stayed at her matrimonial home for about 7 years during the said time. She mostly resided with her husband at her place of work in Delhi and other places. The husband of the complainant is working as Sergeant in Air Force. It is contended by the complainant, in her petition of complaint, that on the date of marriage after performance of rituals, when the bride would be scheduled to go with groom to his matrimonial home, the members of the *Barat* i.e. groom's party demanded an Alto Car and declared that the bride would not be taken to her matrimonial home (*Bidai*) without fulfilment of demand of Alto Car. The father and brother of the complainant were absolutely in precarious condition to arrange the said demand, at that time, local villagers somehow arranged a sum of Rs. 5,00,000/- (Five lakh rupees) and the same was handed over to the hand of father of the groom and then only, the complainant was taken to her matrimonial home (Sasural).

6. It is alleged in the complaint that the father-in-law of the complainant received the said money of Rs. 5,00,000/-. Even if the said allegation is accepted to be true,



it appears from the evidence of the complainant, her father and brother that during her stay at matrimonial home, her mother-in-law and sister-in-law used to abuse, taunt and ridicule her on demand of dowry. They used to say to the complainant that they expected Rs. 10,00000/- (Ten lakh rupees) from the house of the complainant as dowry because the husband of the complainant used to earn Rs. 25,00000/- (Twenty five lakh rupees). Thereafter, indisputably, she went away from her matrimonial home and started to live with her husband. It is the allegation of the complainant that her husband also used to torture her both physically and mentally on demand of dowry and he had illicit relation with another lady. Thus, on perusal of the complaint, evidence of the witnesses on behalf of the complainant before charge and other materials, only allegation which is available against the father-in-law of the complainant is that he received a sum of Rs. 5,00000/- from the father of the complainant at the time of *Bidai* of complainant with her husband. After solemnization of marriage and during her stay at her matrimonial home, the complainant made no allegation against the present petitioner, who is an old man earning his livelihood working



as a Priest in a village.

7. There is absolutely no evidence against the petitioner that after marriage, he demanded or accepted any dowry from the complainant or her relatives.

8. There are plethora of decisions that omnibus allegations against a matrimonial relation, especially, father-in-law or mother-in-law alleging commission of offence under Section 498(A) of the I.P.C. cannot be taken into consideration by the Court. In her complaint as well as evidence before charge, the complainant failed to say who arranged for the said Rs. 5,00,000/-, who handed over the said amount allegedly to the father of the husband of the complainant. No witness who gave the money allegedly to the father of the complainant was examined on behalf of the complainant during evidence before the charge. Therefore, the allegation of cruelty on demand of dowry against the petitioner being vague and omnibus, he ought to have been discharged before charge under Section 245 of the Cr.P.C. The trial court failed to consider the above stated aspect while disposing of the application under Section 245 of the Cr.P.C..

9. For the reasons stated above, I am inclined to



allow the instant revision application. It is, therefore, ordered that the instant revision is allowed and the impugned order dated 31.08.2019 passed by the learned Sub-Divisional Judicial Magistrate, Saran at Chapra in Complaint Case No. 2890 of 2014 is quashed and set aside.

10. However, the case against the remaining accused persons shall proceed.

(Bibek Chaudhuri, J)

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