

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.58822 of 2017

Arising Out of PS. Case No.-686 Year-2013 Thana- PATNA COMPLAINT CASE District-
Patna

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Dheeraj Kumar @ Dhiraj Kumar Son of Vijay Prakash, a resident of Mohalla-
B.N.R. More Khajurbanna, Police Station- Sultanganj, District- Patna.

... .. Petitioner/s

Versus

1. The State Of Bihar
2. Reena Kumari, Wife of Dhiraj Kumar, resident of Mohalla- Kazibagh,
Police Station- Alamganj, District- Patna.

... .. Opposite Party/s

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Appearance :

For the Petitioner/s	:	Mr. Arvind Kumar Mouar, Advocate Mr. Harish Kumar, Advocate
For the State	:	Mr. Mithlesh Kumar Khare, APP
For the O.P. No.2	:	None

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CORAM: HONOURABLE MR. JUSTICE JITENDRA KUMAR
ORAL ORDER

17 03-03-2025 The present revision petition has been preferred against the impugned order dated 01.05.2014 passed by learned Judicial Magistrate, Ist Class, Patna City in C.A. No. 686 of 2013, whereby learned Judicial Magistrate has issued summons against the petitioner for offence punishable under Section 498A of the Indian Penal Code.

2. Despite service of notice, O.P. No.2 has not appeared to contest the present petition.

3. I heard learned counsel for the petitioner and learned APP for the State.

4. Learned counsel for the petitioner submits that petitioner is husband of the complainant/O.P. No.2 and he is innocent but has falsely been implicated in this case. He further



submits that as per the evidence which come during inquiry under Section 200 Cr.PC, no *prima facie* case is made out against the petitioner and hence, the impugned order is not sustainable in the eye of law.

5. Learned counsel for the petitioner refers to the statement of complainant and her five witnesses to submit that the complaint and the statements made under Section 200 Cr.PC shows that allegation against the petitioner is general and omnibus and there is no specific allegation against him.

6. He further submits that in reply to Court question, she has not been able to explain the delay in filing the complaint after one year of the alleged commission of the offence. She has also stated in her reply to the Court question during inquiry under Section 200 Cr.PC that she does not want to live with her husband, even if, she is kept properly by him.

7. He also submits that petitioner has also filed Matrimonial Petition under Section 9 of Hindu Marriage Act for restitution of conjugal rights and that is still pending.

8. He also refers to and relies upon judicial precedent **Mamidi Anil Kumar Reddy Vs. The State of Andhra Pradesh & Anr., [2024] 2 S.C.R. 252** to submit that general and omnibus allegation is not sufficient to issue summons



against the petitioner/husband.

9. However, learned APP for the State opposes the prayer of the petitioner submitting that the petitioner is husband of the complainant and as per the averment made in the complaint as well as the statements made by the complainant and her witnesses during inquiry under Section 200 Cr.PC, a clear *prima facie* case is made out.

10. He also refers to the complaint and the statements of the complainant and her witnesses to show that there is allegation of demand of dowry as well as torturing therefor of the complainant by the petitioner/husband. Even one criminal case has been also filed by the complainant-wife against her husband for offence punishable under Section 498A of the Indian Penal Code.

11. Hence, at this stage of issuing summons for facing trial, even strong suspicion based on legally admissible material against the petitioner is sufficient. Hence, there is no illegality or infirmity in the impugned order.

12. I considered the submission advanced by both the parties and perused the material on record.

13. I find as per the complaint and the statements made by the complainant in her statement under Section 200



Cr.PC that marriage between the complainant and the petitioner herein was solemnized on 29.02.2012 as per Hindu Rites and Customs. However, just after 6 months of the marriage, the marriage started running into rough weather on account of illegal demand of dowry by the petitioner and his relatives and on account of the failure of the complainant to fulfill the illegal demand of the petitioner due to poverty of her parents, she was subjected to cruelty and ultimately, she was ousted from her matrimonial home on 02.06.2012.

14. Such allegation has been supported not only by the complainant in her statement under Section 200 Cr.PC, but even by five other witnesses examined during inquiry under Section 200 Cr.PC.

15. It is settled principle of law that at the stage of cognizance or issuing summons, even strong suspicion based on material on record is sufficient to take cognizance or issuing summons against the accused. At this stage, the Court is not required to find the material which could lead to the conviction of the accused and in the case on hand, there is sufficient material against the petitioner for issuing summons against the petitioner for offence punishable under Section 498A IPC.

16. I also find that matrimonial petition of the



petitioner/husband filed for restitution of conjugal rights has not been decreed till date against the complainant/wife. It is still pending consideration of the court, as per the statement of learned counsel for the petitioner/husband.

17. Hence, it cannot be held, for want of any decree in favour of the husband under Section 9 of Hindu Marriage Act, that wife-complainant is living separately from her husband without any rhyme and reason.

18. Even the reply of the complainant to Court question that she does not want to live with her husband despite good conduct shows that she is badly hurt by the conduct of the petitioner/husband, and that is why she may not be willing to continue her matrimonial life with him. As such, refusal of the wife to live with her husband does not necessarily show that he has not faced cruelty at the hands of her husband. In fact, it appears other way round.

19. In view of the aforesaid facts and circumstances, I am of the considered view that the impugned order needs no interference. Accordingly, the present petition is dismissed.

(Jitendra Kumar, J.)

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