

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.77501 of 2023

Arising Out of PS. Case No.-415 Year-2021 Thana- KAUWAKOL District- Nawada

Rupesh Kumar @ Akshay Kumar, Son of Raj Kumar Halwai, Resident of Village-Dayanagar Nursarai, P.S.- Nursarai, Dist- Nalanda

... .. Petitioner

Versus

1. The State of Bihar
2. Priyanka Kumari, Daughter of Trilok Kumar, Resident of Village-Kawakole Behind Hospital, P.S.- Kawakole, Distt- Nawada

... .. Opposite Parties

Appearance :

For the Petitioner	:	Mr. Bashishtha Narayan Mishra, Advocate Mr. Brij Kishor Mishra, Advocate
For the State	:	Mr. Prem Kumar Jha, APP
For the O.P. No.2	:	Mr. Pankaj Kumar, Advocate

CORAM: HONOURABLE MR. JUSTICE CHANDRA SHEKHAR JHA
ORAL JUDGMENT

Date : 02-07-2025

Heard learned counsel for the petitioner, learned
APP for the State and learned counsel appearing on behalf of
O.P. No.2/informant.

2. The present application has been preferred by the petitioner for quashing of the order dated 14.09.2023 as passed by the learned Judicial Magistrate-1st Class, Nawada in connection with Kawakole P.S. Case No.415 of 2021, G.R. No.3602 of 2021, whereby the learned jurisdictional Magistrate has taken cognizance for the offences punishable under Sections 498-A read with 34 of the Indian Penal Code



(in short 'IPC') as well as Sections 3 and 4 of the Dowry Prohibition Act against the petitioner and others.

3. The case of prosecution in brief is that the marriage of O.P. No.2, namely, Priyanka Kumari was solemnized on 01.03.2020 according to Hindu Customs and Rituals with petitioner Rupesh Kumar, son of Raj Kumar Halwai, resident of village-Dayanagar Nursarai, P.S.-Nursarai, District-Nalanda. At the time of marriage, the parents of informant had given sufficient gift, which are mentioned in the FIR. The informant further alleged that Rupesh Kumar (petitioner), Mukesh Kumar, Kanchan Devi and Raj Kumar Halwai started torturing her mentally and physically for further dowry of Rs.1,00,000/- (Rupees One Lakh)/Five Lakh. The informant further alleged that her parents came to her matrimonial home and tried to pacify the matter but, they were adamant for realizing Rs. 5 lakh in the name of dowry saying that unless it is paid, they will not allow her to reside at the matrimonial house. It is further alleged that other relatives, namely, Pappi Devi, Mahendra Prasad Halwai and Rani Devi were also torturing for dowry.



4. With aforesaid allegation, the police registered Kawakole P.S. Cse No.415 of 2021 against the petitioner and others for which the charge-sheet was submitted on 30.12.2022 under sections 498-A read with 34 of the IPC as well as Sections 3 and 4 of the Dowry Prohibition Act.

5. On the basis of materials available on record, the learned Judicial Magistrate-1st Class, Nawada vide impugned order dated 14.09.2023 took cognizance against the petitioner including other co-accused persons.

6. It is submitted by learned counsel appearing for the petitioner that the informant/O.P. No.2 never established physical relationship with petitioner and for the said reason, the petitioner preferred a divorce case against, O.P. No.2, which is pending before the court of learned Principal Judge, Family Court, Nawada. It is pointed out that petitioner has made several attempts for restitution of conjugal life and every time, it was refused by O.P. No.2. It is submitted that the parties have agreed to dissolve their marriage against permanent alimony of Rs.4,92,000/- (Rupees Four Lakh Ninety-two Thousand only) but, fairly conceded that the



amount as aforesaid was not paid by the petitioner.

7. On the other hand, learned counsel appearing for O.P. No.2/informant submitted that the petitioner has assured to keep O.P. No.2 with all dignity and honour while praying for his bail but, after obtaining bail, he again ousted the O.P. No.2 from her matrimonial home. It is submitted that admittedly the permanent alimony was not paid to O.P. No.2 as agreed for Rs.4,90,000/-, which suggest on its face that the matter never compromised between the parties. It is submitted that the thrust of allegation is available against the petitioner, being husband and the issue which raised by petitioner is mainly of defence version, which cannot be looked into at this stage.

8. Considering the aforesaid submissions and upon perusal of record, it transpires that the compromise has been failed between the parties, where thrust of allegation is available mainly against the petitioner, who is the husband and further, the version/argument, which raised by learned counsel appearing for the petitioner cannot be looked into at this stage being defence version.



9. Accordingly, the present application, being devoid of any merit, accordingly, same stands dismissed.

10. Office is directed to send a copy of the judgment to the learned trial court forthwith.

(Chandra Shekhar Jha, J.)

Sanjeet/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	03-07-2025
Transmission Date	03-07-2025

