

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.398 of 2023

Arising Out of PS. Case No.-1744 Year-2021 Thana- SAMASTIPUR COMPLAINT CASE
District- Samastipur

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RAJ KUMAR S/O AMIT KUMAR Resident of village and P.O. and P.S.-
Fuldomar, District- Banka, at present residing C/o Lalji Variety Sweets Sanat
Nagar, Rambag Lal Chowk, P.S.- Rambag District- Srinagar (Jammu and
Kashmir).

... .. Petitioner/s

Versus

1. The State of Bihar
2. USHA KUMARI @ SANJANA GUPTA W/O RAJ KUMAR Resident of
village, P.O., and P.S.- Fuldomar district- Banka.

... .. Opposite Party/s

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Appearance :

For the Petitioner/s	:	Mr. Amaresh Kumar, Advocate
For the State	:	Mr. Bharat Lal, APP
For the O.P. No.2	:	Mr. Ramadhar Shekhar, Advocate

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CORAM: HONOURABLE JUSTICE SMT. SONI SHRIVASTAVA
ORAL ORDER

5 22-01-2026 Heard learned counsel for the petitioner, learned APP

for the State and learned counsel for the opposite party
no.2/complainant.

2. The present application has been filed on behalf of
the petitioner for quashing the order dated 06.06.2022 passed by
the learned In-Charge Chief Judicial Magistrate, Samastipur in
Complaint Case No.1744 of 2021 whereby and whereunder the
learned Court concerned took cognizance under Section 498(A)
of the Indian Penal Code against all the accused persons
including the present petitioner and summons have been issued.

3. The learned counsel for the petitioner submits that



the learned Court concerned has wrongly taken cognizance under Section 498(A) of the I.P.C. as the same is not being made out as against the petitioner, who is the husband of the opposite party no.2. He substantiates his arguments by the fact that the money that was being demanded by the accused persons including the present petitioner was for carrying out a business and hence, would not come within a purview of demand of dowry. It is further submitted that the allegations are totally general and omnibus in nature and no specific allegations have been made against the petitioner. Learned counsel has also submitted that for the same allegations the opposite party no.2/complainant has taken recourse to filing of a Domestic Violence Act case and the present case has been filed with a malicious motive, as such the same could be quashed on the ground of malicious prosecution.

4. *Per contra*, learned counsel for the opposite party no.2 opposed the present application by submitting that the complaint case filed by the opposite party no.2 is totally supported by the statement of the complainant on solemn affirmation and also by three witnesses examined during the inquiry. He has controverted the submission made by the learned counsel for the petitioner that there was no demand for



dowry as the Complaint and the complainant's statement on oath clearly indicate that there was a demand for Bullet motorcycle and Rs.2 Lakh as dowry, which would facilitate the petitioner in carrying out his business. He has invited this Court's attention to the fact that even after payment of the Rs.2 lakh as dowry, the demand for Bullet motorcycle also continued and the opposite party no.2/complainant was subjected to extreme cruelty and torture and finally on 17.10.2021, she was forcefully ousted from the house keeping all her streedhan, jewellery etc.. So far as the argument of general and omnibus allegation is concerned, such argument would not fall good against the present petitioner, who happens to be the husband of the opposite party no.2 and who is primarily responsible for the welfare of his wife. Moreover, the allegations disclose even specific allegations against the husband of demand and torture, including the incident of 16.11.2021 during the course of Panchayati. It has also been submitted that the petitioner has now contracted a second marriage and has left the complainant along with her child in lurch and this very fact also adds to the offence of mental cruelty inflicted upon the opposite party no.2.

5. Taking into consideration the rival contentions of the parties, this Court is of the view that the allegations made in



the complaint case, *prima facie*, disclose the allegation of both demand of dowry and consequent cruelty being inflicted upon the opposite party no.2 and the said complaint also stands supported by the statement of the complainant on solemn affirmation and from the statement of the witnesses examined during the inquiry. Upon consideration of such materials on record, *prima facie* case under Section 498(A) has been found and summons have been issued. This Court finds no convincing reason to quash/set aside the order dated 06.06.2022 whereby cognizance has been taken as at this stage it is only to be seen whether *prima facie* case is made out or not and other details need not be gone into.

6. Upon such consideration of facts and circumstances as also the settled law, the present application for quashing the order dated 06.06.2022 passed by learned In-Charge Chief Judicial Magistrate, Samastipur in connection with Complaint Case No. 1744 of 2021 stands dismissed.

(Soni Shrivastava, J)

anand/-

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