

(2022) 03 JH CK 0010

In the Jharkhand High Court

Case No : Criminal Miscellaneous Petition No. 1908 Of 2015

Abhijit Chakraborty

APPELLANT

Vs

State Of Jharkhand And Others

RESPONDENT

Date of Decision : 09-03-2022

Acts Referred:

Indian Penal Code, 1860 — Section 498A

Citation : (2022) 03 JH CK 0010

Hon'ble Judges : Sanjay Kumar Dwivedi, J

Bench : Single Bench

Advocate : S.S. Choudhary, P.C. Jha

Final Decision : Allowed

Judgement

Sanjay Kumar Dwivedi

This petition has been heard through Video Conferencing in view of the guidelines of the High Court taking into account the situation arising due to COVID-19 pandemic. None of the parties have complained about any technical snag of audio-video and with their consent this matter has been heard.

This petition has been filed for quashing of cognizance order dated 25.09.2014 passed in Complaint Case No.2779/2013 in which cognizance has been taken under section 498A IPC against the petitioner by the learned court of Judicial Magistrate, 1st Class, Ranchi.

It has been stated in the complaint that the O.P.no.2 was married to this petitioner on 27.07.2010 at Bhagalpur and just after marriage she has been tortured by the petitioner and other inlaws for the demand of Ten lacs rupees and a four wheeler and on different occasions the petitioner and his parents jointly tortured the complainant due to which she has returned with her father from the house of the petitioner but the petitioner has also demanded dowry from her at Ranchi also.

This case is arising out of section 498A IPC. By order dated 22.03.2017 on the point of compromise notice was issued to the O.P.No.2 in view of the fact that the case is arising out of matrimonial dispute.

Mr. Jha, the learned counsel for the O.P.No.2 submits that he has got no instruction with regard to compromise.

By order dated 08.02.2022, this Court called current status of the complaint case which is the subject matter of this Cr.M.P. The status report dated 10.02.2022 of learned Judicial Magistrate, 1st Class-X cum Additional Munsif, Civil Court, Ranchi is on the record.

It has been informed by the said report that the case is running at the stage of evidence on charge.

The complaint is of the year 2013 and there is no stay in the Cr.M.P and inspite of that, the O.P.No.2 has not taken any effort in the complaint case which prima facie suggest that this is an abuse of process of court.

The Court has perused the cognizance order dated 25.09.2013. In the cognizance order it has not been disclosed as to what are the prima facie materials against this petitioner. It is well settled that for taking cognizance, no detail order is required, however, prima facie materials are required to be disclosed in the cognizance order which is lacking in this case.

Accordingly, cognizance order dated 25.09.2014 passed in Complaint Case No.2779/2013 in which cognizance has been taken under section 498A IPC against the petitioner by the learned court of Judicial Magistrate, 1st Class, Ranchi is hereby set aside.

The matter is remitted back to the concerned court to pass fresh order in accordance with law.

Cr.M.P.No.1908 of 2015 stands allowed and disposed of.