

(2020) 01 PAT CK 0168

In the Patna High Court

Case No : Criminal Miscellaneous No. 87322 Of 2019

Anand Mohan Jha And Ors

APPELLANT

Vs

State Of Bihar And Anr

RESPONDENT

Date of Decision : 09-01-2020

Acts Referred:

Code Of Criminal Procedure, 1973 — Section 482
Indian Penal Code, 1860 — Section 498(A), 504, 506
Dowry Prohibition Act, 1961 — Section 3, 4

Citation : (2020) 01 PAT CK 0168

Hon'ble Judges : Madhuresh Prasad, J

Bench : Single Bench

Advocate : Ramakant Sharma, Laxmikant Sharma, Murli Dhar

Final Decision : Dismissed

Judgement

Heard learned Sr. counsel for the petitioners and learned APP for the State.

The instant petition, under Section 482 of the Code of Criminal Procedure, 1973 (for short "the Code"), has been filed for quashing the order

dated 02.11.2018, passed by learned Sub Divisional Judicial Magistrate, Lakhisarai in Lakhisarai G. R. No. 404 of 2018, arising out of Mahila P. S.

Case No. 09 of 2018, by which the learned Court below has taken cognizance against the petitioners for the offence under Sections 498A, 504 and

506 of the Indian Penal Code and Section 3/4 of the Dowry Prohibition Act.

Learned counsel for the petitioners submits that petitioner are husband, father-in-law, mother-in-law and "Dewar" of informant respectively.

The complaint has been filed by the complainant alleging offence under Sections 498A of the Indian Penal Code and Sections 504 and 506 of the

Indian Penal Code, read with Section 3 of the Dowry Prohibition Act.

The learned Sr. counsel submits that the complaint is a glaring example of malicious prosecution. The husband, in fact, is the victim as the complainant has been creating troubles in the family of the husband ever since the wedding took place. The petitioner No.1, in this respect have also lodged a

informatory petition before the Sub Divisional Judicial Magistrate Patna, the same is annexed as Annexure-3 to the petition. It is further submitted that the petitioner no.1 in the informatory petition has clearly stated about the chance of false implication in a criminal case. In the circumstances, the prosecution arising out of complaint case no. 129C/2018 is a glaring example of prosecution intended with mala fide and is liable to be quashed u/s 482 of the Code. Learned Sr. counsel further submits that the petitioner is willing to provide alimony to the complainant. The issue regarding the alimony is an issue which is to be raised by the petitioners in the appropriate proceeding. The present concern of the Court is in respect of the allegations levelled by the wife of petitioner No.1 in the complaint case.

On going through the complaint petition, this Court would observe that it is not one of those cases where general and omnibus allegation has been levelled against all the in-laws. In the instant complaint, specific allegations have been made against the Dewar of trying to take undue advantage of the distance between the complainant and her husband. The specific allegations have been levelled in paragraph Nos. 6,7, 8 and 9 of the complaint petition even against the father-in-law and mother-in-law of subjecting the complainant to cruelty.

In such circumstances, no case is made out for interference U/s 482 of the Code. The application is devoid of merit and the same is, accordingly, dismissed.

If the petitioners approach the Court below at the appropriate stage, petitioner's application for discharge or otherwise shall be considered without being prejudiced by rejection of the instant petition, in accordance with law.