
(2007) 07 PAT CK 0080

In the Patna High Court

Case No : Criminal Miscellaneous No. 48912 of 2006

Ashok Kumar Chaurasia and Others

APPELLANT

Vs

The State of Bihar and Another

RESPONDENT

Date of Decision : 06-07-2007

Acts Referred:

Dowry Prohibition Act, 1961 — Section 4
Penal Code, 1860 (IPC) — Section 406, 498A

Citation : (2007) 4 PLJR 271

Hon'ble Judges : S.C. Jha, J

Bench : Single Bench

Final Decision : Allowed

Judgement

S.C. Jha, J.—The order under challenge is dated 19.11.2005/21.11.2005 passed by the SDJM, Danapur, in Complaint Case No. 874(C) 2004 whereby and whereunder on the basis of the complaint filed by Sarita Kumari Chourasia, cognizance order has been passed against the petitioners and others for offences punishable under Sections 498A, 406 of Indian Penal Code and Section 4 of the Dowry Prohibition Act and thereby they have been asked to face trial. Petitioners have also filed supplementary affidavit. O.P. No. 2 Sarita Kumari Chourasia is not represented by her lawyer, although, the name of her counsel appears in the daily cause list.

2. Petitioners Ashok Kumar Chourasia and Ajay Kumar Chourasia, sons of late Satya Narayan Pd. Chourasia, are said to be uncles of Shashi Nath Chourasia, who is husband of Sarita Kumari Chourasia. It has been stated that they are separated from the branch of Shashi Nath Chourasia since long and having nothing to do with the day to day affairs of the family of Shashi Nath Chourasia.

3. It has also been stated that Petitioner No. 3 Rameshwar Nath Chourasia and his wife Saraswati Devi, Petitioner No. 4, who happened to be brother and sister-in-laws of Shashi Nath Chourasia also live separately from Shashi Nath Chourasia and they have no concern with Shashi Nath Chourasia or his wife.

4. Petitioner Nos. 5 and 6, Rani Devi and Baby Devi @ Sita Devi are said to be married sisters of Shashi Nath Chaurasia whose marriages were said to have been solemnised even prior to the marriage of Sarita Kumari Chourasia and so they have no concern with the fulfillment or non-fulfillment of the alleged dowry. Shashi Nath Chourasia, husband of Sarita Kumari Chourasia is not the petitioner here

5. As per allegation, the complainant Sarita Kumari Chourasia lodged a complaint on 2.11.2004 before the ACJM. Danapur, alleging that her marriage was solemnised with Shashi Nath Chourasia on 6.7.1999 by observing Hindu rites and rituals and at the time of marriage cash to the tune of Rs. 1,50,000/- besides gold. ornaments, clothes and utensils worth Rs. 40,000/- were given by way of presentation and, thereafter, she started living in her Sasurai. She lived there for ten days. But in the month of April, 2000, furniture, T.V. etc. were given by her family members in Gauna. Immediately thereafter her in-laws started torturing her both mentally and physically saying that she was black in complexion. The complainant tried her best to live in her Sasurai, but all went in vain. Thereafter, the father of the complainant came in her Sasurai on 16.11.2001 to watch the situation and at the time of bidagari, all the accused persons forcibly took signature of her father on a paper and lastly she delivered a female child at Bihta on 8.6.2002, the information of which was immediately given to her Sasurai. But nobody bothered to visit her, rather there was further demand of Rupees one lac.

6. Contention has been advanced on behalf of the petitioners that, as a matter of fact, these petitioners who were living separate and having no concern with the day to day affairs or dealings with the family of Shashi Nath Chourasia, still they have been implicated in the case simply because they happen to be uncles, sisters and brother-in-laws of Shashi Nath Chourasia, husband of the complainant Sarita Kumari Chourasia.

7. It was further contended that, as a matter of fact, Divorce Suit No. 9/2002 was filed in the Court of the District Judge, Bhojpur at Arrah, by her husband Shashi Kumar Chourasia and after filing of the said Divorce Suit, Sarita Kumari Chourasia did not opt to appear there, rather after gathering knowledge, she had chosen to file a criminal case in the month of November, 2004. Opposite Party No. 2 was in the habit of leaving her Sasurai frequently and a complaint petition has been filed with an ulterior motive just by way of vengeance by Opposite Party No. 2.

8. Annexures-3 and 4 of the supplementary affidavit, statements of Shashi Kumar and Munnajee as also Annexure-5, statement of Manoj Kumar show that they live separately from the family of Shashi Nath Chourasia long before.

9. Learned Additional Public Prosecutor appearing on behalf of the State has also been heard. It has been submitted that in such cases of dowry demand, the entire family members and relations of bridegroom are roped so as to harass them by aggrieved wife and her family members.

10. As a matter of fact, uncle and brother-in-law who are separated as also the elder married sister have no direct advantage or disadvantage with the fulfillment or non-fulfillment of dowry demand.

11. In that view of the matter, there is no justification of facing trial of the petitioners. There is direct allegation against the husband of Opposite Party No. 2 who is not petitioner here.

12. So, separating the case of the petitioners from the husband of Opposite Party No. 2 Sarita Kumari Chourasia, these petitioners should not be asked to face the trial alongwith the husband of the complainant-Opposite Party No. 2. In that view of the matter, the impugned cognizance order against the petitioners stand quashed and this application is allowed.