

(2017) 03 JH CK 0032
In the Jharkhand High Court
Case No : Cr. M.P. No. 1309 of 2002

Babul Mishra

APPELLANT

Vs

The State of Jharkhand

RESPONDENT

Date of Decision : 01-03-2017

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 482
Dowry Prohibition Act, 1961 — Section 3, Section 4
Penal Code, 1860 (IPC) — Section 406, Section 494, Section 498A

Citation : (2017) 2 JLJR 128

Hon'ble Judges : Rongon Mukhopadhyay, J.

Bench : Single Bench

Advocate : Mr. Babul Mishra, (In person), for the Petitioner; Mr. Krishna Shankar, A.P.P, for the State

Final Decision : Dismissed

Judgement

Rongon Mukhopadhyay, J.(Cav) - Heard Mr. Babul Mishra petitioner no. 1 in person and Mr. Krishna Shankar, learned A.P.P. for the State.

2. In this application, the petitioners have prayed for quashing of the entire criminal proceedings in connection with Dhanbad Sadar P.S. Case No. 235 of 1998 instituted for the offences punishable under Sections 498A, 406, 494 of the Indian Penal Code and Sections 3/ 4 of the Dowry Prohibition Act.

3. Initially a complaint case was instituted being Complaint Case No. 209 of 1998 in which it was alleged that the marriage of the opposite party no. 2 was solemnized with the petitioner on 07.03.1991 and Gauna was performed on 27.02.1994. It is alleged that during that period the opposite party no. 2 resided in her matrimonial house and she was subjected to torture and ill treatment by the petitioners for non-fulfilment of the demand of a Colour Television, Scooter and Almirah. It was further alleged that on pressure of the petitioners an amount of Rs. 30,000/- was paid in cash to the petitioner no. 1 for purchasing a scooter. Allegation has been levelled that the petitioner no. 1 had contracted a second

marriage with Nibha Kumari. The petitioners had even refused to return back the "Stridhan" of the opposite party no. 2 and ultimately the opposite party no. 2 was constrained to file the complaint petition.

4. The complaint was sent to the Police under Section 156(3) of the Cr. P.C. which led to registration of Dhanbad Sadar P.S. Case No. 235 of 1998.

5. After investigation the Police having found the case to be true submitted charge sheet against the accused persons for the offences punishable under Sections 498A, 406 and 494 of the Indian Penal Code and Sections 3/ 4 of the Dowry Prohibition Act.

6. It has been stated by the petitioner that the allegations made in the First Information Report are general in nature. Submission has been advanced that the opposite party no. 2 had died on 26.03.2004 and in such circumstance the criminal proceeding as against the petitioners cannot be allowed to continue. It has further been stated that the petitioner Nos. 2 and 3 are the parents-in-law of the opposite party no. 2 and are old and ailing persons and so far as the petitioner no. 4 is concerned, she subsequently got married and is residing peacefully at her matrimonial house and coupled with the nature of allegations levelled the criminal proceeding as against the petitioner nos. 2, 3 and 4 also deserves to be quashed and set aside. It has further been stated that the petitioner no. 1 who is appearing in person is a practicing advocate in Patna High Court.

7. Mr. Krishna Shankar, learned A.P.P. for the State, has opposed the prayer made by the petitioners and has stated that the witnesses in course of investigation have supported the manner and nature of ill treatment meted out to the opposite party no. 2 for non-fulfilment of the demand of dowry. It has further been stated that the petitioner no. 1 surreptitiously solemnized second marriage and prima facie when there are evidences against the petitioners, the present application is liable to be rejected.

8. The tenor and purport of the allegations made in the original complaint petition does suggest that all the accused persons had played a role in depriving the opposite party no. 2 to lead a peaceful matrimonial life. Demands were consistently made and the opposite party no. 2 was regularly ill treated. The allegations made in the original complaint petition was found to be true and the same culminated in submission of charge sheet. Some of the witnesses in course of investigation have categorically supported the prosecution case and have also stated about the solemnization of second marriage by the petitioner no. 1 with one Nibha Kumari. The subsequent development with respect to the solemnization of marriage of the Sister-in-law of the opposite party no. 2 will not absolve, the petitioner no. 4 for the acts she is alleged to have committed along with the other petitioners. Criminal law which has been set into motion on the complaint filed by the opposite party no. 2 cannot be stalled or extinguished merely on the reasons which have been given by the petitioner no. 1 as sufficient

evidence is on record to suggest the complicity and involvement of all the petitioners in committing the offence as alleged.

9. In view of the circumstances enumerated above, I am not inclined to entertain this application and the same is accordingly dismissed.