
(2011) 05 JH CK 0006
In the Jharkhand High Court
Case No : A.B.A No. 3318 of 2010

Devesh Kumar

APPELLANT

Vs

The State of Jharkhand and Ashu Verma

RESPONDENT

Date of Decision : 10-05-2011

Acts Referred:

Penal Code, 1860 (IPC) — Section 498A

Citation : (2012) 1 DMC 466

Hon'ble Judges : Jaya Roy, J

Bench : Single Bench

Advocate : Rajiv Ranjan, for the Appellant; T.N. Verma, Assistant Public Prosecutor for State and Rahul Kumar, for Opp. Party No. 2, for the Respondent

Judgement

Jaya Roy, J.—Heard the learned Counsel for the Petitioner the learned Counsel for the State and the learned Counsel for the Opp. Party No. 2.

2 The learned Counsel for the Petitioner submits that after filing the Divorce petition (i.e. Divorce Petition No. 82 of 2008) in Chhapra on 14.5.2008, the complainant opposite party No. 2 has filed the instant complaint petition on 22.08.2008. He has further submitted that all the allegations made against the Petitioner are absolutely false and concocted which is only counter blast of his Divorce Petition. In fact the complainant opposite party No. 2 does not want to live with the Petitioner rather she wants to live in her MAIKE with the Petitioner making the Petitioner as "Gar Damad." No specific allegation made against the Petitioner in the complaint petition, only general and omnibus allegations has been made against him. It is further contended that their matter has been referred to the Bihar State Women Commission, Patna and after hearing the parties, the said Commission has observed that the complainant does not want to live with her husband and for this reason she even left to appear before the Commissioner. Ultimately the Commission has rejected the case by the order dated 30.4.2009 issued vide Letter No. 286/09. The said Letter is annexed in this application as Annexure-3. It is also contended that the Prima-facie no case is

made out u/s 498A of the I.P.C. against the Petitioner as no such allegation is made in the complaint petition.

3 The learned Counsel of the Complainant/Opposite party No. 2 submits that though it is a love marriage between the parties but the Petitioner who is the husband of the complainant, the Petitioner and his family members had mentally and physically tortured her for the demand of dowry which is mentioned in her complaint petition. The Petitioner at the time of making friendship and also negotiation of the marriage posed himself as practicing lawyer of the Delhi High Court and of the Supreme Court of India and believing the same, the complainant family has giving Rs. 3.80 lacs Cash, 25 Tola Gold Ornaments, 1.5 Kg. Silver Ornaments as dowry and has lavishly spent more than Rs. 2 lacs on the marriage ceremony which is mentioned in the list of the items given at the time of marriage. It is further contended that the Petitioner has taken the majority amount of money deposited in the account of the complainant even he has taken the scholarship money awarded to the complainant under the Junior Research Fellowship Programme of the U.G.C. In this contest the complainant has annexed the number of the money receipt of the Bank as Annexure- B series in the counter affidavit filed by the complainant. It is also contended that the Petitioner never practice either in Delhi High Court or in the Supreme Court of India. It is also contended that the entire career prospect of the complainant was destroyed by the Petitioner and she was subjected to all kinds of harass of torture for demand of the dowry and also demanded a Flat in Delhi from the mother of the complainant and also gave a threat that if the said demand will not be fulfilled by the complainant side, the Petitioner will divorce her.

4. As I direct both the parties to appear in person with their counsel before this Court, they have appeared before this Court in Chamber today. I have a talk with them. The Petitioner has admitted that though he has a law degree but he never practiced in any Court. He has also admitted that at present he is unemployed and residing at Chhapra in Bihar. He has also stated that he is ready to keep the complaint with him at Chhapra.

5. The Complainant/ Opposite Party No. 2 has stated before this Court regarding the torture and demand made by the Petitioner and his family members. She has also submitted that the Petitioner has also filed a matrimonial Suit for divorce, he has no intention to keep her with him. It is only for this case he has agreed to keep her with him at Chhapra.

6. Considering the submissions made by the parties as stated above and considering the allegations made in the complaint petition, I am not inclined to grant anticipatory bail to the Petitioner. Accordingly the Anticipatory bail application of the Petitioner is rejected.

7. However, if the both the parties file any compromise petition in the trial court in course of the trial, the trial court will consider the same and pass order according to the law.