

(2012) 05 JH CK 0090
In the Jharkhand High Court
Case No : A.B.A. No. 896 of 2012

Dulla Soren and Kamru Soren

APPELLANT

Vs

State of Jharkhand

RESPONDENT

Date of Decision : 16-05-2012

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 438(2)
Dowry Prohibition Act, 1961 — Section 3, 4
Penal Code, 1860 (IPC) — Section 406, 420, 498A

Citation : (2012) 4 JCR 355

Hon'ble Judges : Jaya Roy, J

Bench : Single Bench

Advocate : Amit Kumar Das, for the Appellant; K.P. Choudhary, Advocate for the O.P. No. 2, for the Respondent

Judgement

Hon''ble Mrs. Justice Jaya Roy

1. Heard the learned counsel for the petitioners and the learned counsel for the State and the counsel appearing for the opposite party no.2. The petitioners are accused in this case registered under Sections 498A, 420, 406 of the I.P.C. and Section 3/ 4 of the Dowry Prohibition Act, but the court below has taken cognizance only under Sections 420 and 406 of the I.P.C.

2. The case of the complainant in short is that the accused petitioner No. 1 namely Dulla Soren approached the complainant through the co accused namely Anil Hansda and gave a proposal for the marriage of his son namely Kamru Soren (petitioner no.2) with the daughter of the complainant namely Champa Tudu. The marriage was fixed and the petitioner no. 1 demanded Rs. One Lakh and a Motorcycle. Thereafter, all the co-accused gave a proposal for registration of the marriage and for that necessary format was submitted and a date of registration of the marriage was fixed for 14.2.2011 and the complainant paid a sum of Rs.50,000/- to the petitioner No. 1 with assurance that he will pay the balance amount on the date of registration. The complainant and his daughter

reached at Registration Office on the aforesaid date, but none of the accused persons including the present petitioners no. 1 and 2 did not reach there. When the complainant asked the reason, the accused persons replied them, that they want to solemnize a social marriage on 26.4.2011. When the complainant made all the arrangement for the marriage and even they have distributed the Invitation Cards to the relatives, and suddenly all the accused persons including the petitioners came to their residence and demanded a sum of Rs. two lakhs and one Indica Car and ultimately as the complainant could not fulfill the said demand, they refused to perform the marriage and when the complainant went to the petitioner No. 1 and asked him to return the money, he was mercilessly assaulted and driven out from his house, giving a threat of dire consequence. Thereafter, the complainant lodged the present case. Counsel for the petitioner has submitted that the petitioners have not committed any offence. It is further submitted that the complainant has sent a legal notice to the petitioners, but in the said notice, he has not mentioned regarding the payment of aforesaid sum i.e. Rs.50,000/- given to the petitioner No. 1 as alleged in his complaint petition, which cast a great doubt in the prosecution case and also on the payment of the aforesaid amount to the petitioner No. 1. It is also submitted that there is not a single chit of paper in proof of the aforesaid payment to the petitioners by the complainant. Counsel for the petitioner's has further submitted that another son of the petitioner namely Chunu Soren was married with the niece of the complainant, thereafter, the petitioner No.2 has developed some intimacy with the daughter of the complainant and they decided to marry, but they concealed this fact from their respective families. They have applied for the registration of the marriage before the Registration Office but in the meantime, some dispute was cropped up between them and due to which, there was a break up in the said relationship. Therefore, it cannot be said that the petitioners have cheated the complainant or the daughter of the complainant.

3. Counsel appearing for the complainant opposed the prayer for bail and he has submitted that though a sum of Rs.50,000/- was given to the petitioner as dowry for the marriage, even then, the petitioner did not solemnized the marriage of his son with the daughter of the complainant.

4. Considering the facts and circumstances of the case and also considering the fact that the complainant could not produce a single chit of paper regarding payment of the aforesaid amount of Rs.50,000/- to the petitioner No. 1 and even he has not mentioned in the legal notice, which he has sent to the petitioner No. 1, about the aforesaid payment, I direct both the petitioners above named to surrender before the trial court within a period of one month from the date of this order. If the petitioners surrender before the trial court within the said period, the trial court is directed to release both the petitioners namely Dulla Soren and Kamru Soren on bail, on furnishing bail bond of Rs.10,000/- (Ten Thousand) each, with two sureties of the like amount each, to the satisfaction of the court below/Judicial Magistrate, 1st Class, Jamshedpur, in connection with C/1 Case No. 1686 of 2011, subject to the conditions that one of the bailors will

be local resident having immovable property within the jurisdiction of the district concerned and subject to the conditions laid down u/s 438(2) Cr.P.C.