

(2012) 03 JH CK 0088
In the Jharkhand High Court
Case No : A.B.A. No. 2649 of 2011

Ghanshyam Sao and Most. Shanti

APPELLANT

Vs

The State of Jharkhand

RESPONDENT

Date of Decision : 14-03-2012

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 156(3)
Dowry Prohibition Act, 1961 — Section 3, 4
Penal Code, 1860 (IPC) — Section 201, 304(B), 323, 498(A)

Citation : (2012) 03 JH CK 0088

Hon'ble Judges : Jaya Roy, J

Bench : Single Bench

Advocate : Soumitra Barai, for the Appellant; Amrendra Kumar, Advocate for the State , Assistant Public Prosecutor, for the Respondent

Final Decision : Dismissed

Judgement

Hon"ble Mrs. Justice Jaya Roy

1. Heard the counsel for the petitioners and the counsel for the informant and the counsel for the State. The petitioners are apprehending their arrest in this case registered under Sections 498(A) , 323, 304(B) , 201 of the I.P.C. and Section 3/4 of the Dowry Prohibition Act, pending in the court of Chief Judicial Magistrate, Koderma.

2. Counsel for the petitioners has submitted that the petitioner No.1 is the husband and petitioner no.2 is the mother -in-law of the victim lady, who was grand-daughter of the informant /complainant. Counsel for the petitioners has submitted that the complainant has filed a complaint case i.e. Complaint Case No.709 of 2008, which had been sent to the police for instituting a case and investigating under the provisions of 156 (3) of the Cr.P.C. Whereupon, the present case i.e. Markacho P.S. Case No.09 of 2009 was instituted u/s 498(A) /323/304/(B)/201 of the I.P.C. and Section 3/4 of the Dowry Prohibition Act. It is also contended that after completion of the investigation, the police has

submitted the final report, stating that the case is not true against the petitioners. But, thereafter, on a protest petition filed by the complainant; after taking cognizance, the court has proceeded. Counsel for the petitioner has further contended that they have been falsely implicated in this case and, in fact, the wife of the petitioner was died of AIDS in her parents' house A.B.A. No. 2649 of 2011 and after her death, her body was sent to her matrimonial house for funeral. It is also contended that all the allegations regarding demand of dowry and torture are false and concocted. It is also submitted that as the wife of the petitioner was suffering from AIDS and her parents have sent her dead body to the petitioners' house, the villagers and the petitioners had decided that since the deceased was suffering from such a serious disease so her body should not be burnt and ultimately, they buried the said dead body.

3. Counsel for the informant has submitted that there is specific allegation against the petitioners regarding torture and also regarding assault. He has further submitted that earlier the victim lady lived peacefully in her sasural for 2 to 4 months, and thereafter, the petitioners started demanding a motor-cycle and cash by way of additional dowry and when the same was not given, the accused persons started torturing the victim lady-Babita. On 15.10.2008, when the information was received by the complainant that Babita Devi -the victim lady had been assaulted by the petitioners, the complainant went to meet her on 17.10.2008, but he came to know that the accused persons had killed her and already buried her dead body. It is further contended that a number of witnesses have also supported the prosecution case. Considering the facts and circumstances of the case and also considering the fact that there is specific allegation against the petitioner regarding torture and assault and demand of dowry and also seriousness of offence, I am not inclined to grant anticipatory bail to the petitioners. Accordingly, the prayer for anticipatory bail of the petitioners, is, hereby, rejected.