
(2010) 05 PAT CK 0025
In the Patna High Court

Gopal Prasad Singh and Others

APPELLANT

Vs

State of Bihar and Shyam Kishore Prasad

RESPONDENT

Date of Decision : 06-05-2010

Acts Referred:

Dowry Prohibition Act, 1961 — Section 3, 4
Penal Code, 1860 (IPC) — Section 120(B), 406

Citation : (2011) 2 DMC 466

Hon'ble Judges : Rakesh Kumar, J

Bench : Single Bench

Final Decision : Dismissed

Judgement

Rakesh Kumar, J.—Heard learned Counsel for the petitioners, learned Counsel for the State and learned Counsel for the complainant.

2. Petitioners have prayed for quashing the order of cognizance dated 13.07.1999 passed in Complaint Case No. C437 of 1999/632 of 1999 passed by learned Judicial Magistrate, 1st Class, Nawadah for offences u/s 406 and 120B of the Indian Penal Code and Section 3 and 4 of the Dowry Prohibition Act.

3. The complaint petition contained in Annexure-1 discloses that the complainant a retired teacher has alleged that the marriage of his fourth daughter was fixed with Munnu Kumar, petitioner No. 2 after negotiation with his father, petitioner No. 1 and as per agreement in presence of others the complainant gave Rs. 20,000/- at the first instance and also gave jewelry and other items as per details given at the foot of the complaint petition at the time of Tilak ceremony on 15.4.1996. After the Tilak ceremony a further demand of Rs. 20,000/- was made by way of dowry to which also the complainant agreed and offered to pay the same at the time of marriage but on the date of marriage i.e. 20th April, 1996 the accused persons did not come with Barat for the marriage and thereafter several attempts were made at Panchayati but neither the money nor the goods were returned back.

4. On behalf of the petitioners it has been submitted that the petitioners wanted the marriage to take place on the date of fixed but they were told not to come for the marriage and when they did not go with the Barat the marriage of complainant's daughter was solemnized with younger brother of one of his son-in-laws. In support of this fact, some materials have been annexed with the quashing application such as affidavit by Sarpanch. For supporting the defence that on 19th April, 1996 the accused persons were told not to come for the marriage a Sanha alleged to have been lodged by petitioner No. 3, wife of the petitioner No. 1 dated 19.4.1996 has been annexed as Annexure-7 which is addressed to the Officer Incharge, Makhdoompur, Jehanabad and the photocopy of the same shows an official seal and a receipt by the Officer Incharge dated 19.4.1996.

5. On behalf of the complainant it has been submitted that no counter affidavit could be filed because the complainant at the time of occurrence itself was a retired teacher and he has grown old and he has no son but only four daughters all of whom are now married. He submitted that as per instructions, the Sanha is not reliable and it has been ante dated for the purpose of defence. He made further submissions that as per instructions when the Barat did not reach on the date of marriage, the complainant was taken ill and to save his prestige the relations arranged the marriage of his fourth daughter with brother of one of the son in laws. It has further been submitted that there is no averment made on behalf of the petitioners that they ever returned the money given by the complainant or the ornaments or other articles which were given at the time of Tilak.

6. Having considered the rival submissions, there appears substance in the submissions of learned Counsel for the State that defence of the accused persons cannot be examined in detail and considered at the time of cognizance. According to the learned Counsel for the State there was sufficient material to make out prima facie case and the order of cognizance suffers from no illegality or infirmity. This Court finds merit in the submissions noted above. Hence, this application for quashing of the order of cognisance is dismissed.