
(2009) 02 PAT CK 0012

In the Patna High Court

Case No : Criminal Miscellaneous No. 51968 of 2007

Md. Shabbir and Others

APPELLANT

Vs

The State of Bihar and Others

RESPONDENT

Date of Decision : 06-02-2009

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 482
Dowry Prohibition Act, 1961 — Section 3, 4
Penal Code, 1860 (IPC) — Section 147, 307, 323, 34, 379

Citation : (2009) 2 PLJR 1037

Hon'ble Judges : Abhijit Sinha, J

Bench : Single Bench

Advocate : Md. Anis Akhtar and Arif Siddiqui, for the Appellant; Jharkhandi Upadhyay for the State and Mr. Vijay Shankar Srivastava for O.P. Nos. 2 and 3, for the Respondent

Final Decision : Dismissed

Judgement

Abhijit Sinha, J.—This happens to be the second round of litigation before this Court u/s 482 Cr.P.C. for which the facts germane to the issue may be noticed in brief. The marriage of Arfa Jamal took place on 13.5.2004 with Md. Shabbir, petitioner No. 1 and on 7.11.2006 she filed Complaint Case No. C-2083 of 2006 before the Chief Judicial Magistrate, East Champaran at Motihari alleging commission of offences under Sections 323, 147, 307, 379, 504, 403, 498A/34 I.P.C. as also Sections 3/4 of the Dowry Prohibition Act at the hands of the accused who were her husband, parents-in-law, dewar and two nanads from the period of the marriage till the date of filing of the complaint. It further appears that on 24.11.2006, the father of the complainant of Complaint Case No. C-2083 of 2006, Shamsul Arfin, preferred Complaint Case No. C-2245 of 2006 in the Court of the Chief Judicial Magistrate, East Champaran at Motihari alleging commission of offences under Sections 468, 469, 471, 495 and 307 I.P.C. at the hands of the accused who again were the same as those impleaded as accused in the complaint filed by the daughter save and except that the two nanads therein

were replaced by two others and the period when the occurrence allegedly took place were 5 P.M. on 6.11.2006 and 3 P.M. on 22.11.2006.

2. Finding the same similarity between the two complaints, the petitioners herein approached this Court in Criminal Misc. No. 3005 of 2007 on the plea that two cases had been instituted for the same offence, one by the victim who was the wife of petitioner No. 1 and the other by the father of the victim lady and in both cases cognizance had been taken and that they should be amalgamated. This Court, in the facts and the circumstances of the cases, by order dated 2.4.2007 directed the petitioners to take steps before the court below and file an application for amalgamation of both the cases and in that event the court below shall examine the matter and pass appropriate orders.

3. In pursuance of the order dated 2.4.2007 of this Court the learned Chief Judicial Magistrate examined the records of both the cases and came to the finding that:-

"On perusal of both cases it transpires that in both cases the complainants are different. Some accused persons are different, the time and date of occurrence are different and manner of occurrence are also different.

From the facts mentioned aforesaid, it is clear that both cases are of different nature filed by different persons for the occurrence of the different date and times so they cannot be amalgamated and it cannot be said that both the cases are of similar nature."

4. I have perused the complaint petitions of both the cases myself and I do not find any reasons to differ with the findings of the learned Chief Judicial Magistrate recorded in the impugned order dated 10.8.2007. It is apparent that both the cases are different with different dates of occurrence, different complainants and even in the party accused. There is no merit in this application which is accordingly dismissed.