

(2007) 10 PAT CK 0027

In the Patna High Court

Case No : Criminal Miscellaneous No. 36077 of 2007

Pramila Devi

APPELLANT

Vs

The State of Bihar and Others

RESPONDENT

Date of Decision : 06-10-2007

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 203
Penal Code, 1860 (IPC) — Section 376

Citation : (2008) 1 PLJR 533

Hon'ble Judges : Mihir Kr. Jha, J

Bench : Single Bench

Final Decision : Dismissed

Judgement

Mihir Kr. Jha, J.—Heard Counsel for the petitioner. The petitioner is aggrieved by the order, dated 14.2.2007 passed by Shri Prabhat Trivedi, Judicial Magistrate, Motihari in Complaint Case No. 2248 of 2006 whereby and whereunder the Court below has dismissed the complaint petition u/s 203 of the Code of Criminal Procedure.

2. Counsel for the petitioner submits that on the perusal of the complaint petition as well as the statement of the complainant-petitioner on solemn affirmation, it would appear that the ingredients of offence of rape u/s 376 of the Indian Penal Code was easily made out and the Court below has committed illegality in dismissing the complaint petition. Learned Counsel has in this regard referred to the averment in the complaint petition that the complainant alleged that she was subjected to repeated sexual intercourse against her wishes on the allurements of being married.

3. It was, however, admitted at the bar that the petitioner had already been married and had one issue from the said marriage even before filing of the complaint petition. Learned Counsel also does not deny, the fact that the petitioner was initially working as a domestic help in the house of the Opposite Party No..2. He further does not deny the fact that the so-called rape continued to

be there for a period of two years before the petitioner woke up and came out to file a complaint case. The very fact that the petitioner had suppressed the fact about her being already married with an issue of six years in the complaint petition and that not even a word was said therein about the so-called allurements given by the accused persons for marriage with the Opposite Party No. 2 goes to show that actually the allegation of the nature of rape has been invented subsequently in a malicious manner. Infact, there was nothing on record of complaint case to substantiate the allegations of rape specially when date and period of the alleged occurrence of rape as is said to be some two years back and the medical corroboration of the allegation of rape was also not possible after a gap of such period. In that view of the matter, if the Court below after considering the case at length, has found no material to continue with the complaint case and has dismissed the complaint case u/s 203 of the Code of Criminal Procedure can not alter the said unimpeachable findings of fact. Consequently, there is no merit in this application and the same is accordingly dismissed.