

(2019) 07 PAT CK 0030

In the Patna High Court

Case No : Criminal Miscellaneous No. 8489 Of 2015

Rahamtullah

APPELLANT

Vs

State Of Bihar And Anr

RESPONDENT

Date of Decision : 04-07-2019

Acts Referred:

Indian Penal Code, 1860 — Section 34, 120B, 307, 323, 337, 341, 498(A)
Code Of Criminal Procedure, 1973 — Section 482

Citation : (2019) 07 PAT CK 0030

Hon'ble Judges : Birendra Kumar, J

Bench : Single Bench

Advocate : Anshuman Singh, Madhav Jha, S. Ehteshamuddin, Chakrapani

Final Decision : Allowed

Judgement

1. Heard learned counsel for the parties.

2. Petitioner is father-in-law of opposite party No.2. Opposite party No.2 lodged G.R.P. Patna P.S.Case No.249 of 2013 under Sections 341,323,337/34 I.P.C. against her husband and this petitioner. The FIR would reveal that old matrimonial dispute is going on between the spouse for which criminal cases are also going on between the parties. One of the case referred in the FIR is Alamganj P.S.Case No. 262 of 2010 pending in the court of learned S.D.J.M., Patna City, Patna. On 13.08.2013, a counselling took place in the aforesaid Alamganj case and both the spouses agreed to live together and go to Delhi where husband is already doing job. The opposite party No.2 boarded alongwith her husband in Sampurn Kranti Expresss Train. Husband had a confirmed ticket whereas opposite party No.2 had unconfirmed ticket. On the way, she sustained injury at her head by a stone thrown by some unknown person. She suspected a case of conspiracy of her husband and this petitioner as both had threatened her that she would be killed in the train itself.

3. Submission of learned counsel for the petitioner is that a perusal of the entire

case diary would reveal that no one supported the allegation of conspiracy by the petitioner and petitioner was not present at the time of occurrence. Therefore, criminal prosecution of the petitioner is abuse of the process of the court.

4. In the circumstance, in this application under Section 482 Cr.P.C. petitioner has challenged the order of cognizance dated 06.05.2014 passed in G.R.P. Patna P.S.Case No.249 of 2013 wherein cognizance has been taken for offence under Sections 341/498(A)/323/337/307/120B/34 I.P.C.

5. Learned counsel for the opposite party No.2 submits that the charges have already been framed and prosecution evidence is going on in the trial.

6. Considering the fact that there is absolutely no material except bald allegation that the petitioner had conspired in assault to opposite party No.2 committed in the running train the prosecution of the petitioner would amount to abuse of the process of the court. Stage of the trial is immaterial when initial prosecution is itself bad in law.

7. Accordingly, the impugned order and subsequent criminal proceeding against the petitioner is hereby quashed and this application stands allowed.