
(2019) 09 PAT CK 0138

In the Patna High Court

Case No : Criminal Miscellaneous No. 4032 Of 2015

Rajjan Chauhan And Ors

APPELLANT

Vs

State Of Bihar And Ors

RESPONDENT

Date of Decision : 20-09-2019

Acts Referred:

Indian Penal Code, 1860 — Section 323, 379, 498A
Dowry Prohibition Act, 1961 — Section 3, 4

Citation : (2019) 09 PAT CK 0138

Hon'ble Judges : Birendra Kumar, J

Bench : Single Bench

Advocate : Upendra Kumar, Vinod Shankar Modi

Final Decision : Dismissed

Judgement

1. Heard learned counsel for the parties.
2. The petitioners have challenged the order of cognizance dated 25.02.2014 passed by the learned S.D.J.M., Biharsharif, Nalanda in Complaint Case No.573(C) of 2013 whereby cognizance has been taken under Sections 498A, 379, 323 I.P.C. as well as under Section 3/4 of Dowry Prohibition Act.
3. According to complaint petition, the complainant was married with petitioner-Rajjan Chauhan in the year 2010 and soon after the marriage, there was demand of a cycle and television as well as Rs.25,000/- more. For non-fulfillment of the demand, all the inlaws were torturing the complainant in different ways including by physical assault.
4. Submission of learned counsel for the petitioners is that the allegation is general and omnibus and not specific against anyone and the inlaws are victim of false implication due to growing tendency to over implicate the family members whenever a matrimonial discord starts between the spouse.
5. Learned counsel for the opposite party No.2 submits that husband has married

with another lady during subsistence marriage with the petitioner and that lady has already lodged an identical complaint against the husband.

6. In Shiv Jee Rai vs. The State of Bihar & Anr, reported in 2013(3) PLJR 139, a Bench of this Court relied on the judgment of the Hon'ble Supreme Court in Preeti Gupta and Anr Vs. State of Jharkhand and Anr, reported in AIR 2010 SC 3363 and observed in para-7 of the judgment as follows:

"7. It is also a matter of common knowledge that exaggerated versions of the incident are reflected in a large number of complaints. The tendency of over implication has become affair of the day that has been noticed by the Hon'ble Supreme Court in the case of Preeti Gupta and Another vs. State of Jharkhand and Another, reported in A.I.R. 2010 SC 3363 [: 2010(4) PLJR (SC)36] and recently the Hon'ble Supreme Court in the year 2012 in the case of Geeta Mehrotra and Another vs.State of U.P. and Another* passed in Criminal Appeal No. 1674 of 2012 in paragraph nos. 14, 17, 19, 20, 21 and 27 where in the similar fact and situation the Hon'ble Supreme Court has held that now it became tendency in general to rope all the family members in a case under Section 498A of the Indian Penal Code in order to (sic)undue harassment to the family members. It will be appropriate to quote paragraph nos. 34 and 35 of the aforesaid judgment in the case of Preeti Gupta (supra) :-

34. Unfortunately, at the time of filing of the complaint the implications and consequences are not properly visualized by the complainant that such complaint can lead to insurmountable harassment, agony and pain to the complainant, accused and his close relations.

35. The ultimate object of justice is to find out the truth and punish the guilty and protect the innocent. To find out the truth is a Herculean task in majority of these complaints. The tendency of implicating the husband and all his immediate relations is also not uncommon. At times, even after the conclusion of the criminal trial, it is difficult to ascertain the real truth. The courts have to be extremely careful and cautious in dealing with these complaints and must take pragmatic realities into consideration while dealing with matrimonial cases. The allegations of harassment of husband's close relations who had been living in different cities and never visited or rarely visited the place where the complainant resided would have an entirely different complexion. The allegations of the complainant are required to be scrutinized with great care and circumstances.

7. Considering the ratio decided in the aforesaid case and general and omnibus nature of allegation, chances of over implication cannot be ruled out. Hence, the impugned order against petitioner Nos.2 to 4 namely, Naresh Chauhan, Fulo Devi and Raniya Kumari stands quashed. However, the criminal proceeding shall go on against the husband of opposite party No.1 namely Rajjan Chauhan.

8. With the aforesaid observation, this application is partly allowed and partly dismissed.