

(2020) 09 JH CK 0045

In the Jharkhand High Court

Case No : Criminal Miscellaneous Petition No. 4016 Of 2019

Ratan Nag @ Ratan Kumar Nag

APPELLANT

Vs

State Of Jharkhand

RESPONDENT

Date of Decision : 03-09-2020

Acts Referred:

Indian Penal Code, 1860 — Section 323, 377, 498A, 511
Dowry Prohibition Act, 1961 — Section 3, 4

Citation : (2020) 09 JH CK 0045

Hon'ble Judges : Ananda Sen, J

Bench : Single Bench

Advocate : Anil Kumar Ganjhu, Vibhuti Sahay

Final Decision : Dismissed

Judgement

1. Learned counsel for the petitioner undertakes to deposit the court fees within two weeks. Other defect(s), as pointed out by the office, is ignored for the present.
2. The lawyers have no objection with regard to the proceeding, which has been held through video conferencing today at 11:00 A.M. They have no complaint in respect of the audio and video clarity and quality.
3. Heard the counsel for the parties.
4. By way of filing this petition, the petitioner has challenged the order taking cognizance dated 24.5.2018 and the First Information Report as well as all subsequent proceeding in connection with Simdega Mahila P.S. Case No. 28/2017 (G.R. No. 435 of 2017) registered for the offence under Section 498A, 323, 377 and 511 of the Indian Penal Code and Sections 3/ 4 of the Dowry Prohibition Act, 1961, pending in the court of learned Judicial Magistrate, 1st Class, Simdega.
5. Learned counsel for the petitioner submits that no offence is made out thus cognizance could not have been taken and initiation of the proceeding is also

bad. He further submits that no date and time of torture was mentioned in the report, and there is also no allegation for demand of dowry ,thus the proceeding cannot be continued. He also submits that petition for restitution of conjugal right has been filed by the husband of the informant, in which, the informant has not appeared.

6. Learned A.P.P opposes the prayer of the petitioner.

7. After going through the record and the order impugned, I find that there is allegation against the petitioner that he tortured his wife and assaulted her. It also appears that prima facie cognizable offence is made out. When prima facie cognizable offence is made out, the FIR cannot be quashed. Not mentioning the date and time of torture is not fatal for the prosecution at this stage. Further, if there is no allegation for demand of dowry, the same cannot be a ground for quashing the FIR when there is specific allegations of torture upon the victim.

8. Since there is sufficient material to proceed against the petitioner, the court below has rightly proceeded against him.

9. Thus, I find no merit in this petition. Accordingly, this petition is dismissed.