
(2010) 05 PAT CK 0050

In the Patna High Court

Case No : Criminal Miscellaneous No. 32559 of 1999

Sakhi Chand Prasad, Manju Devi and Tilakdhari Ram

APPELLANT

Vs

The State of Bihar and Sona Devi

RESPONDENT

Date of Decision : 21-05-2010

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 482
Penal Code, 1860 (IPC) — Section 384, 494, 498A

Citation : (2010) 05 PAT CK 0050

Hon'ble Judges : Rakesh Kumar, J

Bench : Single Bench

Final Decision : Dismissed

Judgement

Rakesh Kumar, J.—Three petitioners, while invoking inherent jurisdiction of this Court u/s 482 of the Code of Criminal Procedure, have prayed for quashing of order dated 12.11.1998 passed by the Additional Chief Judicial Magistrate, Danapur in Complaint Case No. 320(C) of 1998 (Trial No. 597 of 1999). By the said order, the learned Magistrate has taken cognizance of offence under Sections 498A, 494 and 384 of the Indian Penal Code.

2. At the very outset, learned Counsel Shri Nachiketa Jha appearing on behalf of the petitioners submits that the opposite party No. 2 was not legally married wife of son of petitioner No. 1. Learned Counsel for the petitioners has referred to Annexure-2 to the petition, which is photo copy of Voters Identity Card and submits that the Identity Card shows that Sona Devi, who has claimed to be wife of son of petitioner No. 1, "was actually wife of one Raj Balam Nut. He further submits that the opposite party No. 2 in complaint petition, had falsely claimed to be wife of Mathura Prasad, who is son of petitioner No. 1.

3. In this case, earlier notice was issued to opposite party No. 2 and opposite party No. 2 had already entered her appearance through advocate. However, at the time of hearing, none has come forward on behalf of opposite party No. 2.

4. In any event, it would be difficult for this Court to decide the issue as to whether the claim of petitioners is genuine or not. Only on the basis of a photo copy of Identity Card in the name of one Sona Devi, this Court cannot record a finding that the opposite party No. 2 is the same Sona Devi, whose name finds place in the Identity Card, which is Annexure-2 to the petition.

5. In the complaint petition, the opposite party No. 2 had claimed that she was married with Mathura Prasad about six years back from the date of filing of the complaint petition. The complaint petition was filed on 10.0.1998. It was claimed by the complainant that during her life time, her husband Mathura Prasad, who is son of petitioner No. 1, got married with petitioner No. 2. There is allegation of torture and harassment in respect of extracting dowry also.

6. In view of the facts and circumstances as indicated above, the claim of petitioners that the opposite party No. 2 is not real wife of the son of petitioner No. 1, cannot be examined by this Court, while exercising power u/s 482 of the Code of Criminal Procedure. However, all such claims can be examined by the concerned court at appropriate stage.

7. Accordingly, the court is of the opinion that it is difficult to exercise the inherent power in favour of the petitioners and petition stands rejected.

8. In view of rejection of this petition, interim order of stay dated 7.3.2000 stands automatically vacated.

9. Let a copy of this order be sent to the court below forthwith.