
(2008) 05 PAT CK 0028

In the Patna High Court

Shambhu Nath Jha and Others

APPELLANT

Vs

State of Bihar and Another

RESPONDENT

Date of Decision : 16-05-2008

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 156, 245

Dowry Prohibition Act, 1961 — Section 3, 4

Penal Code, 1860 (IPC) — Section 120B, 323, 354, 420, 498A

Citation : (2009) 1 PLJR 582

Hon'ble Judges : Abhijit Sinha, J

Bench : Single Bench

Final Decision : Dismissed

Judgement

Abhijit Sinha, J.—The petitioners who have been impleaded as accused in Complaint Case No. 237(C) 95 are aggrieved by order dated 6.4.2005 passed by Sri M. Sahu, Additional Sessions Judge, Patna, in Criminal Revision No. 963 of 2001 by which the revision application of the petitioners has been dismissed as a result of which the order dated 5.11.2001 passed by the learned Sub Divisional Judicial Magistrate, Patna", in the aforesaid complaint case rejecting the petitioners' prayer for discharge u/s 245 Cr.P.C. has been approved and a prayer has been made for quashing of both the orders.

2. According to the complainant , impleaded herein as O.P. No. 2, she had obtained her B.A. degree in Sociology with Honours and completed a Computer Course whereupon her parents negotiated for her marriage with petitioner No. 3 herein who along with his parents had represented himself as a Intermediate in Chartered Accountancy and had appeared at the final C.A. Examination and on that basis the marriage was solemnized on 22.4.1993 at her native village Jaynagar. It is alleged that on the basis of the false representation the petitioner Nos. 1 to 3 had persuaded the parents of the complainant to part with heavy bounty by way of costly valuables in the form of gifts and after persuasion by petitioner Nos. 1 to 3 , the complainant traveled to her Sasural in Madhubani after

performing Duragaman and after a few days in the Sasural the complainant allegedly was mal-treated and tortured by the petitioners and she was compelled to work like a maid servant, abused, taunted and indecent comments were passed against her parents. It is also alleged that she faced threat of violence and ouster from the marital home with the sole motive of compelling her to ask her parents to meet the demands of the petitioners. Instances of gratis help to the petitioners during their visit to Patna have been cited. Eventually on 1.6.1994 after snatching of her personal belongings and valuables she was made to return to her Naiher with her brother who had come to meet her. It is further alleged that subsequently it came to the knowledge of the complainant that her husband was a simple B.Com. and had never studied Chartered Accountancy.

3. It appears that after filing of the complaint case by the complainant on 31.3.1995, on the following day, i.e., 1.4.1995, the father of the complainant filed another complaint bearing Complaint Case No. 238(C) of 1995 against the petitioner Nos. 1 to 3 in respect of the same transaction being the consequential offences and even the offences under Sections 3/4 of the Dowry Prohibition Act and on a prayer being made the said complaint was transmitted to the concerned police station u/s 156(3) Cr.P.C. whereupon Kadam Kuan P.S. Case No. 425 of 1995 came to be registered.

4. It further appears that in view of the police case and the charge not having been framed in Complaint Case No. 237(C) of 1995 the petitioners filed an application u/s 245 Cr.P.C. for their discharge but the learned Sub Divisional Judicial Magistrate vide order dated 5.11.2001 was pleased to reject the same. Criminal Revision No. 963 of 2001 was filed by the petitioners against the impugned order and the same, as stated above, was also dismissed.

5. The second round of litigation started which resulted in the instant complaint petition and the subsequent dismissal of the revision petition preferred there against.

6. It has been submitted on behalf of the petitioners that both the cases are same and similar and both the cases have been filed by the daughter and the father at an interval of two days with the same set of facts and was a modus operandi to cause harassment to the petitioners.

7. It appears from perusal of the complaint filed by Seema Kumari being Complaint Case No. 237(C) of 1995 that the same was filed for commission of offences under Sections 498A, 323, 354 and other minor provisions of the Penal Code whereas the complaint filed by the father which resulted in the police case was for commission of offences under Sections 420, 120B, 500 and 504 I.P.C. Apparently, the issues involved in both the cases were different and could not, in the remotest sense, be deemed to be same or similar. That being the position, no interference with the impugned orders of the learned Magistrate as also the Revisional Court is called for.

8. In the result, there is no merit in this application which is accordingly

dismissed.