

(2015) 02 PAT CK 0089
In the Patna High Court
Case No : Criminal Misc. No. 22329 of 2012

Shatrughan Singh

APPELLANT

Vs

The State of Bihar and Others

RESPONDENT

Date of Decision : 11-02-2015

Acts Referred:

Penal Code, 1860 (IPC) — Section 342, 406, 498-A

Citation : (2015) 2 PLJR 605

Hon'ble Judges : Aditya Kumar Trivedi, J

Bench : Single Bench

Advocate : Raghunanda Kumar Singh, for the Appellant; Jharkhandi Upadhyaya, Advocates for the Respondent

Final Decision : Allowed

Judgement

Aditya Kumar Trivedi, J.—Heard learned counsel for the petitioner as well as learned APP for the State. In spite of appearance of O.P. No. 2, none has represented her. Petitioner, who happens to be father-in-law along with others including husband has been summoned to face trial for an offence punishable under Sections 498-A, 406, 342 of the IPC vide order dated 6.4.2011 passed by SDJM, Bhojpur at Ara in Complaint Case No. 2100/2010, Trial No. 3004/2010 on a complaint filed by O.P. No. 2, Bindi Devi who happens to be wife of Sanjay Singh, son of petitioner whereunder, she had alleged that after marriage in the year 1999, she came to her Sasural where accused persons advanced demand of Rs. 2,50,000/- in lieu of dowry and to facilitate the same, she was also tortured.

2. It has further been alleged that in the year 2008, father of complainant had paid Rs. 1 Lakh to her husband, Sanjay Singh who had purchased one Commander Jeep in partnership with his friend. Subsequently thereof, they revived demand of dowry and having been denied at her side, on 18.9.2010, the accused persons brutally assaulted her on account of which there happens to be fracture in her left hand as well as also sustained injury over different parts of her body. The accused persons remained immune with her condition and lastly,

on 27.9.2010, she was kicked out after retaining her ornaments, clothes etc.

3. It has been submitted on behalf of petitioner that from the narration of the complaint petition itself, it is apparent that it was the husband who had indulged in such kind of activity, otherwise, there was no occasion for the father of the complainant/O.P. No. 2 to pay Rs. 1 Lakh to the husband of O.P. No. 2/complainant. It has further been submitted that from the complaint petition, it is also apparent that marriage took place in the year 1999 and the case has been filed after eleven years of date of marriage and during intervening period, as expected, the petitioner has gone old and now became victim of circumstances. It has further been submitted that in omnibus way the allegation has been attributed to the petitioner even during course of S.A. as well as statement of the witnesses, is indicative of the fact that being father of the husband of the complainant, he has been implicated in this case to satisfy the personal grudge and vendetta. So submitted that the order of cognizance should be set aside.

4. On the other hand, learned APP opposed the prayer and submitted that at the present stage, presence of prima facie case suggests validity of the order of cognizance.

5. After going through the order impugned as well as complaint petition along with other materials, it is apparent that no specific allegation has been attributed to the petitioner.

6. The Hon'ble Apex Court in the case of Geeta Mehrotra and Another Vs. State of U.P. and Another, AIR 2013 SC 181 : (2012) 10 SCALE 299 : (2012) 10 SCC 741 : (2012) AIRSCW 5692 has held that usually the family members are being implicated in a case under Section 498-A IPC along with other allied Sections by way of retaliation and unless and until, there happens to be specific allegation, the prosecution should not be allowed to proceed. Accordingly, the order dated 6.4.2011 passed by the learned lower court to the extent of petitioner is quashed. Petition is allowed.