
(2007) 07 PAT CK 0071

In the Patna High Court

Case No : Criminal Miscellaneous No. 41765 of 2006

Sheo Prasad Singh and Others

APPELLANT

Vs

The State of Bihar and Another

RESPONDENT

Date of Decision : 26-07-2007

Acts Referred:

Penal Code, 1860 (IPC) — Section 120B, 379, 498A

Citation : (2007) 4 PLJR 460

Hon'ble Judges : Abhijit Sinha, J

Bench : Single Bench

Advocate : K.N. Choubey and Ambuj Nayan Chaubey, for the Appellant;
Jharkhandi Upadhayay for the State and None for O.P. No. 2, for the Respondent

Final Decision : Allowed

Judgement

Abhijit Sinha, J.—The repeated filing of complaint petitions in the Court and/or statement before the police at the instance of O.P. No. 2 herein or her father has led the petitioners to seek protection from the Court. By this application they have sought for quashing of the order dated 5.8.2005 passed in Dehri P.S. Case No. 140 of 2005, G.R. No. 792/2005, whereby the learned Chief Judicial Magistrate, Rohtas at Sasaram, has taken cognizance of offences punishable u/s 498A I.P.C. On a written report submitted by one Baijyanti Devi, wife of Birendra Kumar Singh, who happens to be the son of petitioner Nos. 1 and 2 and brother of petitioner No. 3, Dehri P.S. Case No. 140 of 2005 was registered on the allegation that the petitioners assaulted the informant and ousted her from their house and confiscated all her ornaments etc. Curiously, however, the husband was omitted from being arrayed as one of the accused.

2. It has been submitted on behalf of the petitioners that they are unnecessarily being harassed, notwithstanding the fact that they are separate in mess, worship and cultivation from their son, Birendra Kumar Singh, the husband of the informant which would be apparent from the fact that the said Birendra Kumar Singh has not been arrayed as an accused by the informant. It has also been

submitted that that apart, from the materials collected in course of objective investigation do not make out an offence u/s 498A I.P.C.

3. The learned counsel for the petitioners also sought to submit that the informant and her father are ruthlessly trying to persecute and prosecute the petitioners by whatever means possible. In this connection it was sought to be submitted that prior to the filing of the instant written report there had been three early attempts at harassing the petitioners which started in the year 1996 when the father of the informant herein Jang Bahadur Singh filed Complaint Case No. 163 of 1996 against the three petitioners herein, the husband of his daughter and his sister alleging commission of offences under Sections 498A, 120B, 379 I.P.C, as also 3/4 Dowry Prohibition Act for the period 21.7.1995 to 1.2.1996. In the said complaint case all the accused persons were acquitted vide order dated 10.10.1996 passed by Sri Shailendra Kumar Singh, Judicial Magistrate, 1st Class, Sasaram. Notwithstanding the same the father of the informant herein Jang Bahadur Singh filed another complaint bearing Complaint Case No. 45 of 1997 against the very same person alleging commission of offences u/s 498A, 120B I.P.C, and 3/4 Dowry Prohibition Act for the period 21.7.1995 to 1.2.1996 and from 15.7.1996 to 9.1.1997. The said complaint on being transmitted to the concerned Police Station u/s 156(3) Cr.P.C. was registered as Dehri P.S. Case No. 20/ 97 (G.R. No. 140/1997) u/s 498A I.P.C, which ended in acquittal before the Lok Adalat held on 22.3.1998. In both the cases although the father of the informant herein was the complainant it was, in fact, this very informant who on both occasions had come from her Sasurai to plead before the Court/Lok Adalat that she has not been tortured by her in-laws and that there had never been any demand for dowry.

4. The two rounds of litigations by the father of informant having ended in failure a third complaint was filed by the informant herein bearing Complaint Case No. 749 of 1998 as against the very set of persons who had been impleaded in the first two complaints at the instance of the father alleging for committing an offence under Sections 498A, 120B I.P.C, and 3/4 of Dowry Prohibition Act on 2.5.1998 at about-8 A.M. and the period prior thereto. This litigation ended in acquittal for the accused before the Lok Adalat, Sasaram on 13.8.2003 on a petition being filed by the complainant that she was living with her husband and in-laws, and also accepting that she has filed a false case and that she had begged apology for having maltreated the accused persons. The third round of litigation was followed by the instant case the only difference being that this time the husband and his sister had not been impleaded as accused.

5. Although the O.P. No. 2 has appeared through Vakalatnama but none was present in Court to oppose the submissions advanced by the learned counsel for petitioners and as such the submissions advanced by the learned counsel have to be accepted.

6. Due regard being had to the facts and circumstances of the case as also to the fact that the informant herein had herself filed the petition stating that she was

living with her husband and in-laws and also accepting that she had filed a false case and that she had begged apology for having maltreated the accused persons and the same having ended in acquittal on her statement. There was no exceptional circumstance to file the instant written report. In the aforesaid circumstances the submissions by the learned counsel for the petitioners that they are unnecessarily being harassed and appears to be correct and as a matter of fact in the instant written report the informant has completely suppressed the fact's that there had been three rounds of litigation prior thereto and the police in course of investigation has also failed to take into notice the fact of the three earlier litigation which had ended in acquittal of the accused persons. There is also another aspect of the matter inasmuch the accusation in the three complaint referred to above and in the instant written report are identical which only give rise to suspicion that the instant written- report appears to be maliciously false and any criminal proceeding on the basis thereof would amount to be an abuse of the process of the Court which cannot be allowed to continue. Accordingly the order taking cognizance against the petitioners herein is hereby quashed and the application is allowed.