

(1991) 08 PAT CK 0036

In the Patna High Court

Case No : Criminal Miscellaneous No. 2822 of 1991

Srimati Rekha Naresh Sah and Another

APPELLANT

Vs

Srimati Usha Pankaj and Another

RESPONDENT

Date of Decision : 12-08-1991

Acts Referred:

Dowry Prohibition Act, 1961 — Section 3, 4
Penal Code, 1860 (IPC) — Section 120B, 406, 498A

Citation : (1992) 1 PLJR 127

Hon'ble Judges : S. Hoda, J

Bench : Single Bench

Judgement

S. Hoda, J.—Heard learned Counsel for the Petitioners and learned Counsel appearing on behalf of the opposite party.

2. This petition is for quashing the order dated 17.8.1990 passed by the Judicial Magistrate, 1st class, Patna, by which he has taken cognizance of offence under Sections 498A, 406, 120B of the Indian Penal Code and u/s 3 and 4 of the Dowry. Prohibition Act, 1961 (hereinafter referred to as the Act)

3. learned Counsel for the Petitioners has firstly submitted that the cognizance taken against the Petitioners under Sections 3 and 4 of the Act is bad in law as it has been taken without the previous sanction of the State Government or such officer assigned by the State Government by general or special order specifically in this behalf as provided to Section 4 of the Act (Bihar Amendment. It has been further submitted that some cases have been admitted on the question of applicability of proviso to Section 4 of the said Act (Bihar Amendment).

4. learned Counsel appearing on behalf of opposite party No. 1 has submitted that so far the cognizance under Sections 3 and 4 of the Dowry Prohibition is concerned, the same may be quashed at this stage.

5. After hearing submissions of the learned Counsels, in my view, instead of admitting this petition for hearing it will be just and proper to quash the

cognizance under Sections 3 and 4 of the Act and it is, accordingly, quashed. However, it will be open for the opposite party to file fresh complaint under Sections 3 and 4 of the Act if sanction is obtained and the court will proceed in accordance with law.

6. It has been next contended by the learned Counsel for the Petitioners that on plain reading of the petition of complaint no offence u/s 498A and other sections of the Indian Penal Code is made out.

7. After hearing the submission of learned Counsel for the parties. I am not inclined the offence with the order of cognizance for the Indian Penal Code at this stage. Petitioners may raise this point at an appropriate stage before the trial court.

8. With the observations and directions made above this application is disposed of.