
(2017) 10 PAT CK 0015

In the Patna High Court

Case No : 46339 of 2014

Sudama Devi Wife of Late Janeshwar Singh

APPELLANT

Vs

State of Bihar

RESPONDENT

Date of Decision : 12-10-2017

Acts Referred:

[Dowry Prohibition Act, 1961](#), [Section 3](#),
[Section 4](#) - Penalty for giving or taking dowry - Penalty for
demanding dowry

Citation : (2017) 10 PAT CK 0015

Hon'ble Judges : Rajeev Ranjan Prasad

Bench : SINGLE BENCH

Advocate : Anit Kumar, Satyavrat Verma

Final Decision : Allowed

Judgement

1. Heard learned counsel for the petitioners and learned Additional Public Prosecutor for the State.
2. The petitioners are seeking quashing of the order dated 14.02.011 passed by learned Judicial Magistrate, 1st Class, Patna in Complaint Case No. 2325(C) of 2010 by which cognizance under Section 323, 498A of the Indian Penal Code and 3/4 of the Dowry Prohibition Act, has been taken and the petitioners have been summoned by the learned Magistrate.
3. Learned counsel for the petitioners submits that petitioner no. 1 is the mother-in-law, petitioner no. 2 is the

elder brother of the husband and petitioner no. 3 is the wife of the elder brother of the husband of complainant/Opposite Party No. 2. All these petitioners have been falsely implicated on a general and omnibus allegation against them.

4. Learned counsel submits that from perusal of the complaint petitioner it will appear that the husband of the complainant/Opposite Party No. 2 is in service at Kolkata, and it is her case that she requested her husband to keep her with him at Kolkata, but he did not agree. A son was born from the marriage on 31.07.2002. The allegation against the elder brother that he told the Opposite Party No. 2 that unless Maruti Car is given in dowry she will not go to Kolkata and shall live in present condition has no basis, because it is her own case that she was taken to Kolkata in April, 2005, where she was staying peacefully with her husband, but later on allegations have come that the mother-in-law and the wife of elder brother threw her out of the house when she came back from Kolkata.

5. Learned counsel for the petitioners further submits that the allegations against the mother-in-law, elder brother and wife of elder brother who are all separate and are admittedly living in village are false, concocted and baseless. In fact, the allegations are super-imposition just to falsely implicate the entire family in the present case due to matrimonial discord between the Opposite Party No. 2 and her husband. Filing of the present case after about nine years from the date of marriage itself indicate that so far as the family members (petitioners) are concerned, they have never actively participated in any alleged act. He submits

that this normal tendency to implicate the entire family members under Section 498A I.P.C. by imposing baseless allegations even against those members of the family who are separately living and having no concern with the family of the complainant as is the present case.

6. No one has appeared to oppose the present application even though Opposite Party No. 2 has entered appearance through her advocate.

7. This court has considered the statements made in the complaint petition. The marriage is of the year 2001, the allegations mostly cluster around the conduct of the husband, though in the later part, these petitioners have also been implicated on some vague and general allegations of committing cruelty without their being any description as to when such alleged occurrence took place.

8. In the opinion of this court, the petitioners being closed kith and kin of the husband of the complainant- Opposite Party No. 2 are being prosecuted for sheer harassment, therefore, continuance of the proceeding against them, in the opinion of this Court, will only be an abuse of the process of the court.

9. In the result, the impugned order is set aside as against the present petitioners and the application is allowed to the extent indicated above.