

Patna High Court - Orders

Priya Ranjan Singh & Ors. vs The State Of Bihar & Anr. on 24 August, 2011

IN THE HIGH COURT OF JUDICATURE AT PATNA

Cr.Misc. No.27880 of 2011

With

Cr. Misc. No. 37365 of 2008

1. Priya Ranjan Singh, Son of Late Jai Prasad Singh.
 2. Indu Devi, Wife of Sri Priya Ranjan Singh.
 3. Anjani Kumar, Son of Sri Priya Ranjan Singh
- All are resident of Village Khaira, PS Haveli Kharagpur, District Munger.

----- Petitioner

Versus

1. The State of Bihar.
2. Deep Shika, Daughter of Sri Jawahar Prasad Jayant, Resident of Village Choti Lagm Dharhara, District Munger at present residing at Shri Krishna Road, Lallu Pokhar Bari Kali Asthan, PS Kasim Bazar, District Munger.

----- Opposite Party

For the petitioners : Mr. Ajit Kumar Singh, Advocate

For the State : Mr. Shyam Bihari Singh, A.P.P.

24.8.2011 The restoration application is allowed for the reasons mentioned therein and Cr. Misc. No. 37365 of 2008 is restored to its original file.

Now the matter is being heard on merit. The quashing application has been filed for quashing the order dated 13.6.2008, passed by the Sub-divisional Judicial Magistrate, Munger in Complaint Case No. 371C of 2008 by which the Court below has taken cognizance under Sections 498A, 323, 504 of the Indian Penal Code and 3/4 of the Dowry Prohibition Act.

The petitioners are the father-in-law, mother-in-law and the husband of the victim girl. The allegation in the complaint petition is that there was demand of Maruti Zen (Car) and on non-fulfillment of demand, the in-laws along with the husband used to abuse the complainant Deep Shikha. Not only that the accused abused the complainant, it is also alleged that they assaulted her. On the basis of the aforesaid allegations, cognizance was taken.

Learned counsel for the petitioners submits that the petitioner no. 1 i.e. the father-in-law has instituted a complaint case being 613C of 2008 in which he has alleged that Deep Shikha's father had taken loan from him and in order to honour the loan had issued three cheques. Out of the three cheques, only one cheque of Rs. 2,00,000/- could be encashed. The other two cheques bounced. Thus a case has been instituted under Section 420 of the Indian Penal Code and 138 of the Negotiable Instrument Act. Strangely enough the reason for taking loan, has not been mentioned in the complaint petition. It is submitted that the Court has taken cognizance in the aforesaid case. Learned counsel for the petitioners further submits that the husband has filed an application for restitution of conjugal rights which is pending in the Court below. It is submitted that the opposite party no. 2 namely Deep Shikha does not wish to live with her husband. The reasons for taking such a stand are not mentioned by the petitioners, so this cannot be circumstance in favour of the

petitioners.

It would not be proper for this Court to comment upon the case instituted by the petitioner no. 1 against Jawahar Prasad, father of Indu Devi, (opposite party no. 2) being Complaint Case No. 613C of 2008, as it may cause prejudice to the petitioners' case in future. However, the facts indicate that the allegations are prima facie true, and the petitioner no. 1 has raised counter version, which is highly suspicious.

I do not think that in the facts aforesaid, this Court can hold that no offence would be made out under Section 498A of the Indian Penal Code and $\frac{3}{4}$ of the Dowry Prohibition Act.

This application is dismissed.

Sanjay

(Sheema Ali Khan, J.)