

(2012) 05 JH CK 0038

Jharkhand High Court

Case No: A.B.A. No. 3556 of 2011

Akhilesh Singh @ Akhilesh
Kumar Singh

APPELLANT

Vs

State of Jharkhand and Anju
Singh @ Manju Singh

RESPONDENT

Date of Decision: May 16, 2012

Acts Referred:

- Dowry Prohibition Act, 1961 - Section 4
- Hindu Marriage Act, 1955 - Section 10(1)
- Penal Code, 1860 (IPC) - Section 323, 341, 406, 498A

Hon'ble Judges: Jaya Roy, J

Bench: Single Bench

Advocate: Niranjana, for the Appellant; S. Thakur, for the Opp. Party No. 2, for the Respondent

Final Decision: Dismissed

Judgement

Hon'ble Mrs. Justice Jaya Roy

1. Heard counsel for the petitioner and the counsel for the State. The petitioner is apprehending his arrest in this case registered under Sections 498A, 323, 341, 406 of the I.P.C. and also u/s 4 of the D.P. Act, but the cognizance was taken only u/s 498-A of the I.P.C.

2. The prosecution case, in brief, is that the marriage of the complainant was solemnized with the petitioner on 7.5.2004 according to the Hindu rites and customs and after the marriage, the complainant went to the petitioner's house and lived together as husband and wife in the house of the petitioner. Thereafter, the accused persons including the present petitioner started demanding one Maruti Car as dowry from the complainant and her father and started torturing the complainant for fulfillment of their aforesaid demand. Earlier the complainant had lodged the

complaint before the Officer Incharge of Bokaro Steel City Police Station on 13.8.2006. The said complaint was forwarded to the Family Counseling Center for conciliation proceeding and the same was registered as Family Dispute No. 65 of 2006. The Family Counseling Center issued notice to the present petitioner on various dates, but the petitioner did not turn up and finally the matter was dropped by the Family Mediation Centre. The petitioner was employed at Ramgarh Sikh Regimental Centre, and thereafter, he has filed a suit for judicial separation u/s 10(1) of the Hindu Marriage Act giving a number of false allegation against the complainant i.e. Matrimonial Suit No. 140 of 2006 and ultimately the said suit was dismissed for default vide order dated 7.6.2007. The complainant even against her will, she resided with the present petitioner till 24.5.2010. It is also alleged in the said complaint petition that the petitioner and the co-accused No. 5 are having some extra marital relationship with each other even in the knowledge of the other co-accused persons. The complainant being the wife of the present petitioner opposed to such illicit relationship and for this, she was harassed and tortured by the accused persons. Thereafter, after assaulting the complainant and after taking her gold ornaments and other belongings, driven her out of her house, and therefore, when the father of the complainant tried to settle the matter, the petitioner had driven out the complainant and her father also. Even on 30.5.2010, when the father of the complainant tried to settle the dispute and went to the house of the petitioner No. 1 situated at Sector 3/C along with her daughter, the petitioner No. 1 and other co-accused particularly the petitioner and the accused No. 3-5 had assaulted the complainant, due to which, she sustained some injuries on her nose and head; for which, she was treated by the doctor of Shri Sai Hospital situated in Sector -4 of Bokaro Steel City, hence this case.

3. Counsel for the petitioner has submitted that as both the parties were agreed to settle their dispute, this Court has referred the matter to the Conciliator, Jhalsa. Though, both the parties were present there, but inspite of the best efforts, the parties could not come to any settlement in either way to end the limitation for alt time. Thus, the conciliation has failed. It is further submitted by the counsel for the petitioner that the complainant opposite party No. 2 is a named accused in an F.I.R., which has been lodged by one Army School Teacher alleging that she abetted in eloping and taking away his daughter which has caused great humiliation to the petitioner for which, the petitioner was also warned by the Army Officials but the opposite party No. 2 has continued her nefarious activities, and the petitioner having no way, other than of filing the Title Matrimonial Suit for judicial separation. The present case is nothing but a counter blast of the aforesaid Title Matrimonial Suit (i.e. Title Matrimonial Suit No. 147 of 2010). It is also submitted that the opposite party No. 2 is not willing to live with him. It is also submitted that the petitioner is a permanent employee of Indian Army and there is no chance of his absconding or tempering with the evidences.

4. Counsel appearing for the opposite party No. 2 has submitted that as the petitioner does not want to keep the complainant, he is in habit of filing the cases even from the year 2006. Earlier also, the petitioner has filed the Title Matrimonial Suit i.e. Title Matrimonial Suit No. 140 of 2006 and again another suit i.e. Title Matrimonial Suit No. 147 of 2010 for judicial separation. Therefore, it cannot be said that the petitioner is ready or willing to keep the complainant as his wife which is nothing but an eye wash. It is further submitted that there is specific allegation against the petitioner regarding torture and due to torture, she has sustained injuries and she was under treatment of the doctor at Shri Sai Hospital, Bokaro.

5. Considering the facts and circumstances of the case and also considering that there is direct allegation of torture, result of which, the complainant has received some injuries also, for which she was under medical treatment at Shri Sai Hospital, Bokaro and furthermore, the petitioner being a member of the Indian Army, he should have more disciplined and restrained even in his family life also, I am not inclined to grant anticipatory bail to the petitioner. Accordingly, the prayer for anticipatory bail of the petitioner, is, hereby, rejected.