
(2007) 04 PAT CK 0161

Patna High Court

Case No: Criminal Miscellaneous No. 31451 of 2006

Md. Ekhlague and Others

APPELLANT

Vs

The State of Bihar and Another

RESPONDENT

Date of Decision: April 16, 2007

Acts Referred:

- Criminal Procedure Code, 1973 (CrPC) - Section 482
- Dowry Prohibition Act, 1961 - Section 4
- Penal Code, 1860 (IPC) - Section 498A

Citation: (2007) PLJR 66

Hon'ble Judges: Ghanshyam Prasad, J

Bench: Single Bench

Final Decision: Allowed

Judgement

@JUDGMENTTAG-ORDER

Ghanshyam Prasad, J.

This application u/s 482 Cr.P.C. has been filed to quash the order of cognizance dated 28.10.2005 passed by S.D.J.M., Purnea in Complaint Case No. 590 of 2005 thereby and there under the court below has taken cognizance u/s 498A I.P.C. as well as u/s 4 of the Dowry Prohibition Act against this petitioner. Heard the learned counsel for the petitioners. No one appears on behalf of the opposite party No. 2 in spite of service of notice.

2. The submission of the learned counsel for the petitioners is that the entire case is false and baseless. Earlier to this case, the opposite party No.2 had also filed another complaint case bearing No. 339 of 2000 against Md. Kalam & Ors. alleging Md. Kalam as her husband. The matter was compromised in the year 2003 on the basis of compromise petition filed by both the parties vide Annexure-4 dated 10.10.2002. It is further submitted that on perusal of the complaint petition in this case, it would appear that the opposite party No.2 has claimed marriage with Md.

Ekhlaque on 4.3.2002. On that very date, opposite party No.2 was wife of Md. Kalam. It is further submitted that this case has been falsely instituted against these petitioners in order to take undue advantage. The opposite party No.2 is a lady of bad character.

3. Considered the submission of the learned counsel for the petitioners. Perused the complaint petition of this case as well as the complaint petition of Complaint Case No. 339 of 2000. It is quite clear from the documents filed that on 4.3.2002 opposite party was wife of Md. Kalam and, therefore, the question of marriage with petitioner on.1, Md. Ekhlaque does not arise. This case is apparently false and baseless and is filed with oblique motive. Thus, having regard to the facts and circumstances of the case, this application is allowed and the impugned order of cognizance is hereby quashed.