

S U P R E M E C O U R T O F I N D I A  
R E C O R D O F P R O C E E D I N G S

Petition(s) for Special Leave to Appeal (Crl.) No.1556/2014

(Arising out of impugned final judgment and order dated 24-09-2013 in CRLM No. 36188/2010 passed by the High Court of Judicature at Patna)

ASHWANI KUMAR SINGH @ ASHWANI KUMAR @ SANTOSH SINGH  
Petitioner(s)

VERSUS

THE STATE OF BIHAR & ANR. Respondent(s)

Date : 19-02-2024 This petition was called on for hearing today.

CORAM : HON'BLE MR. JUSTICE C.T. RAVIKUMAR  
HON'BLE MR. JUSTICE RAJESH BINDAL

For Petitioner(s) Mr. Shyam Kishore Sharma, Adv.  
Ms. Prerna Singh, Adv.  
Mr. Chandra Prakash, AOR

For Respondent(s) Mrs. Niranjana Singh, AOR

UPON hearing the counsel the Court made the following  
O R D E R

1. The petitioner seeks to assail the order dated 24-09-2013 in CRLM No. 36188/2010 passed by the High Court of Judicature at Patna. The respondent No.2 filed a complaint before the jurisdictional Magisterial Court alleging commission of offences punishable under Section 498-A read with Section 34 of the Indian Penal Code, 1860 (for short "the IPC") and Section 3 and 4 of the Dowry Prohibition Act. The complaint was forwarded for investigation in terms of the provisions of Section 156(3) of the Code of Criminal Procedure, 1973 (for short "the Cr.P.C."). Consequently, First Information Report (F.I.R.) was registered and a charge sheet was filed alleging commission of offences under Sections 498-A read with Section 34, IPC and Sections 3 and 4 of the Dowry Prohibition Act against the petitioner and his mother.

Thereupon, the petitioner approached the High Court seeking quashment of the F.I.R. as also the charge sheet and all further proceedings. As per the impugned order, the High Court declined to invoke the power under Section 482, Cr.P.C. and disposed of the matter with liberty to the petitioner to raise all the points during the trial. Thereafter, the Trial Court was also directed to expedite the matter and conclude the proceedings within the time stipulated thereunder. Aggrieved by and dissatisfied with the order, the petitioner preferred the captioned Special Leave Petition. On 14.02.2014, this Court stayed the further proceedings in connection with F.I.R. No.56/09 dated 01.03.2009 registered at Police Station-Mahua, Vaishali.

2. Despite the receipt of notice, respondent No.2 has not chosen to enter appearance and to contest the matter. We have no doubt in our mind that non-appearance of a party cannot be a reason for non-application of the relevant provisions as also for none application of mind when the prayer is for quashing the criminal proceedings, involving the inherent jurisdiction.

3. The fact is that the High Court had declined to invoke the power under Section 482, Cr.P.C. evidently, finding *prima facie* case made out against the petitioner. The learned counsel appearing for the petitioner raised contentions in the light of the provisions under Section 468, Cr.P.C. We have already taken note of the fact that the petitioner is facing allegation of commission of offences under Sections 3 and 4 of the Dowry Prohibition Act. A bare perusal of Section 3 would reveal that the minimum sentence imposable thereunder is 05 years. In the contextual situation, it is relevant to refer to the decision in "State of Himachal Pradesh Vs. Tara Dutta [AIR 2000 SC 297] whereunder this Court held that the language of sub-Section (3) of Section 468, Cr.P.C. makes it imperative that the limitation provided for taking cognizance in Section 468, Cr.P.C. is in respect of offence charged and not in respect of offence fianally proved. When that be the position, there cannot be any doubt that the provisions under Section 468,

Cr.P.C. would not apply in the case in hand and in such circumstances, it could not be said that there would be any legal bar for taking cognizance. In that view of the matter, despite the fact that respondent No.2 has not turned up to contest the matter, this Court cannot take a decision to quash the proceedings invoking inherent power. In that view of the matter, the Special Leave Petition has to fail. Consequently, this Special Leave Petition stands dismissed.

4. Pending application(s), if any, shall stand disposed of.

(VIJAY KUMAR)  
COURT MASTER (SH)

(MATHEW ABRAHAM)  
COURT MASTER (NSH)