

The court of 14th Additional Sessions Judge, Muzaffarpur

S.Tr. No. 08 / 2022

In the matter Of :

State

Vs

Abhijeet Pandey

ORDER

Dated : 21.10.2022

1. The case record was put up for hearing on the petition U/S 227 Cr.P.C. filed on behalf of the accused dated 07.07.2022 and rejoinder of the prosecution dated 25.08.2022.
2. Heard parties and perused the case record. The accused has stated in his petition that the above case was lodged on the application of Sima Pandey, who is the wife of this petitioner. The informant influence with her mother filed this false and concocted case with a baseless story. That institution of this case the police submitted charge sheet on the same petition mentioned in the FIR. The police inclusion with informant submitted table report before Ld. Court and Ld. Lower Court took cognizance. After taking cognizance of the summons was issued and after getting summons your petitioner appeared and getting police paper. From the perusal of police paper informant is a habitual litigant and she formed a group of unsocial elements including her brother. Prior to this case your petitioner produced application before Kazi Mohammadpur, SSP Muzaffarpur and other police officers mentioning that his wife was kidnapped by her brother and others persons and they also try to kidnap his minor daughter but they

could not succeeded to kidnapped his daughter, after that his two minor daughters was kidnapped. That to create a difference the informant and her associates in colusion with police she filed this false case before police which was numbered as University P.S. Case NO. 06/2021 U/S 323, 341, 504, 506, 498A & 307 IPC. From the refusal of police to institute the case of the petition the petitioner filed a complaint case before Ld. CJM Muzaffarpur, which was number as C. Case NO. 1180/2022. No case is made out U/S 307 IPC because no injury report is available on the record. Accordingly, prayer was made for discharge.

3. In its rejoinder, prosecution states that there is sufficient material against the sole accused Abhijeet Pandey to frame charge against him. Informant Seema Pandey, winess Laxmi Devi and Himanshu Tiwari supported prosecution case fully. It is well settled law that prosecution is not required to prove its case beyound all iota of doubt, and beyound reasonable doubt. So, prayer was made to dismiss the petition filed by the accused and frame charges upon him.
4. Perusal of the record shows that the informant and witnesses have fully supported the case with respect to allegation for offences punishable U/S 323, 307 & 506 IPC. Prima facie case is made out for these offences and there is sufficient material to frame charge for these offence. So far as, the contention of defence with respect to Section 307 IPC is concerned, it has to be borne in mind that for this offence there is no necessity of injury report or injury as such.

Attempt is mainly related with the intention of the offender and the act done by him in furtherance of such intention. It is not necessarily the penultimate act of the targeted action. In the present case informant and all the witnesses have supported the allegation of throatling. There is no allegation of sustaining any physical injury on her person to seek injury report. For framing of charge it is sufficient.

5. However, there is no sufficient material for the offences punishable U/S 341, 504 & 498A IPC as there is no allegation of any unlawful restraint for 341 IPC, nor the words of abuse has been disclosed for 504 IPC and there is no material relating to any unlawful demand / dowry for the charge of Section 498A IPC in the case diary.
6. Accordingly, the accused is discharged of Section 341, 504 and 498A IPC, but there is sufficient material for framing of charge for the offence punishable U/S 323 & 307 IPC and 506 IPC. Petition dated 07.07.2022 is disposed off accordingly.
7. Charges for offences punishable U/S 323, 307 & 506 IPC were framed against the accused and read over to him. Charges were explained. The accused pleaded not guilty and claimed to be tried.
8. Put up for prosecution evidence on 06.12.2022.

Sd/-

Anil K. Thakur

14th Additional Sessions