

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**Criminal Miscellaneous No.31189 of 2014**

Arising Out of PS.Case No. -871 Year- 2012 Thana -SIWAN COMPLAINT CASE District-  
SIWAN

- =====
1. Ibrahim Mian, son of late Rahimullah Mian
  2. Munaija Khatoon, wife of Ibrahim Mian
  3. Warish Mian @ Warit Mian, son of late Rahimullah Mian
  4. Imam Hasan, son of Ibrahim Mian
  5. Noor Bashar, son of Ibrahim Mian
  6. Md. Munna @ Munna, son of Ibrahim Mian
  7. Md. Firoz @ Firoz Ali, son of Warit Mian
  8. Md. Haroon @ Haroon, son of Warit Mian
  9. Bibi Chantara, wife of Munna Mian
  10. Saira Khatoon, wife of Warish Mian, all are resident of village- Gawandri  
Fakirana, P.S.- Thawe, District- Gopalganj

.... .... Petitioner/s

Versus

1. The State of Bihar
2. Nashima Khatoon, daughter of Abdul Gafar Mian, resident of village- Manpura,  
P.S.- Barharia, District- Siwan

.... .... Opposite Party/s

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**Appearance :**

For the Petitioner/s : Mr. Ajay Kumar Pandey, Advocate

For the Opposite Party/s : APP

Mr. Javed Aslam, Advocate

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**CORAM: HONOURABLE JUSTICE SMT. ANJANA PRAKASH**

**ORAL JUDGMENT**

**Date: 21-05-2015**

The Petitioners, who are in-laws, seek quashing of the order of cognizance dated 30.04.2012 passed by the Sub-Divisional Judicial Magistrate, Siwan, in Complaint Case No.871 of 2012.

The case of the Complainant is that she was married with Samiullah more than thirteen years back and had two children aged about 12 years and 7 years. However, Samiullah assaulted the Complainant and her children and tried to kill her. Whereafter, the accused persons snatched her all articles and ousted her from the matrimonial home.

It has been submitted on behalf of the Petitioners that apparently the allegations in the Complaint Petition are unbelievable. Fact of the matter is that husband and wife had some issue on account of which the husband had filed Divorce Case before the Principal Judge, Family Court, Gopalganj, vide MM Case No.65 of 2012 on 09.04.2012. Having come to know of the same, the present Complaint Petition has been filed.

On the other hand, counsel for the Opposite Party No.2 submits that the husband is absconding and is not paying maintenance to his wife and children.

Be that as it may, considering the nature of allegation in the Complaint Petition and the fact that the marriage had taken place more than thirteen years ago and no ingredients of Section 498-A are fulfilled, I am inclined to allow the application.

Accordingly, the order of cognizance dated 30.04.2012 passed by the Sub-Divisional Judicial Magistrate, Siwan, in Complaint Case No.871 of 2012 is hereby set aside in so far as the Petitioners are concerned.

The application stands allowed.

**(Anjana Prakash, J)**

JA/-

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