

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.18561 of 2015

Arising Out of PS.Case No. -287 Year- 2012 Thana -BEGUSARAI TOWN District- BEGUSARAI

=====

1. NISHANT SHEKHAR Son of Sri Vimlanand Prasad Resident of Puraniganj,
P.S. - Kasim Bazar, District- Munger.

.... Petitioner/s

Versus

1. The State of Bihar
2. Jyoti Kumari @ Jyoti Shekhar, Wife of Nishant Shekhar, Daughter of Late
Narayan Lal , Resident of Ashok Nagar, Pokhariya, P.S.- Town, District-
Begusarai.

.... Opposite Party/s

=====

Appearance :

For the Petitioner/s : Mr. S.K. Lal, Adv.

Mr. P.K. Lal, Adv.

For the Opposite Party/s : Mr. B.N.Pandey, APP

=====

CORAM: HONOURABLE MR. JUSTICE ASHWANI KUMAR SINGH

ORAL JUDGMENT

Date: 30-04-2015

Heard learned counsel for the petitioner and learned
counsel for the State.

This application under section 482 of the Code of
Criminal Procedure (hereinafter referred to as 'the Code') has been
filed for quashing the order dated 23.07.2014 passed by the learned
Chief Judicial Magistrate, Begusarai in Begusarai Town P.S.Case No.
287 of 2012, whereby cognizance has been taken for the offence
punishable under sections 498-A, 406 and 506 read with 34 of the
Indian Penal Code as well as 3 and 4 of the Dowry Prohibition Act.

Learned counsel for the petitioner has contended that
the impugned order dated 23.07.2014 has been passed in a most

mechanical manner without judicial application of mind.

Initially, a complaint was filed, which was referred to the police under section 156(3) of the Code for investigation, pursuant to which the aforesaid police case was registered and investigation was taken up and after conclusion of investigation the police submitted a report under section 173(2) of the Code before the learned Chief Judicial Magistrate, Begusarai. On receipt of the police report, learned Chief Judicial Magistrate has passed the impugned order on 23rd July, 2014, which reads as under :-

“अनुसंधानकर्ता द्वारा आरोप पत्र के कंडिका 11 में वर्णित अभियुक्तों के विरुद्ध भा0दं0वि0 की धारा 498ए, 406, 506/34 एवं 3/4 दहेज अधिनियम के आरोप पत्र केश डायरी के साथ समर्पित किया गया है।

आरोप पत्र के कंडिका 11 में नामांकित अभियुक्तों के विरुद्ध उपरोक्त धाराओं के अंतर्गत संज्ञान लिया जाता है। एस0डी0जी0एम0 न्यायालय के विचारण एवं निष्पादन हेतु भेजा जाता है।”

I have perused the order. I find substance in the argument advanced by the learned counsel for the petitioner. The impugned order does not reflect that the learned Chief Judicial Magistrate has considered the allegations made in the F.I.R. and materials collected in course of investigation before arriving at a conclusion that a prima facie case for the aforementioned offences is made out.

In that view of the matter, the impugned order dated 23rd July, 2014 is set aside and the matter is remanded to the learned Chief Judicial Magistrate, Begusarai for passing fresh order on the police report submitted by the Investigating Officer of the case after considering the allegations made in the F.I.R. as well as the materials collected in course of investigation.

The application is allowed to the extent indicated hereinabove.

(Ashwani Kumar Singh, J)

Pradeep/-

U		T	
---	--	---	--