

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.45373 of 2012

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1. Amit Kumar S/O Shri Janardan Lal Resident Of Mohalla- Charitravan,
P.S.- Buxar, District- Buxar

2. Janardan Lal S/O Late Kamla Pati Lal Resident Of Mohalla- Charitravan,
P.S.- Buxar, District- Buxar

.... Petitioner/s

Versus

1. The State Of Bihar

2. Jaya Kumari D/O Sri Anjani Kumar Srivastava Resident Of Mohalla-
Gandhi Path, P.O. & P.S.- Maner, District- Patna

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Amit Kumar Singh

For the Opposite Party/s : Mr. Mayanand Jha (App)

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CORAM: HONOURABLE SHRI JUSTICE DHARNIDHAR JHA
ORAL ORDER

3 19-05-2015 Having regard to the facts of the case what this Court finds is that the marriage was subsisting on the date of occurrence, as such, the submission that a matrimonial suit was filed by the petitioner-husband on which the summons were issued could never be a ground for quashing a validly pass summoning order. For testing the correctness of summoning order the Court refers to ***A.I.R. 1976 SC 1497 (Smt. Nagawwa vs. Veeranna Shivalingappa Konjalgi and Ors.)*** which was a judgment passed by the Supreme Court placing reliance on its earlier decision reported in ***A.I.R. 1963 SC 1430 (Chandra Deo Singh Vs. Prokash Chandra Bose @ Chabi Bose and Anr.)***. The Supreme Court pointed out that so as to considering the quashing/not

quashing of the prosecution, the Court has to treat the facts alleged in the complaint petition to be true on their face value and it has not to consider the prospective defence of the accused even if it is every strong.

Having considered the law on the point and the facts of the case, the petition lacks merit and the same is dismissed.

(Dharnidhar Jha, J)

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