

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**Criminal Miscellaneous No.45116 of 2012**

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Nek Narayan @ Mantu Singh @ Mantu, son of Sri Birendra Prasad,  
resident of village Saristabad West, P.S. Gardanibagh, District-Patna.

.... .... Petitioner/s

Versus

State of Bihar & Anr

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

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**Appearance :**

For the Petitioner/s : Mr. Usha Kumari Singh

For the Opposite Party/s : Mr. Panchanand Pandit(App)

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**CORAM: HONOURABLE MR. JUSTICE MUNGESHWAR**  
**SAHOO**

ORAL ORDER

2 16-04-2015

Heard the learned counsel for the petitioner and the

learned A.P.P. for the State.

The petitioner has filed this application under Section 482 Cr.P.C. for quashing the order dated 18.05.2012 passed by the court below in Kankarbagh P.S. Case No.6 of 2012 whereby cognizance under Section 498A I.P.C. has been taken.

The learned counsel for the petitioner submitted that the police did not send up the petitioner and charge sheet was filed against the father-in-law and mother-in-law and the victim and this petitioner is the Bahnoi of the husband of the victim. There is no direct allegation against the petitioner and all the allegations are omnibus allegations. The learned counsel further submitted that although, the police did not send up the petitioner but the court below differing with the charge sheet after perusing the statement

of the witnesses in paragraph 10, 11, 12, 13 and 14 of the case diary, has taken cognizance under Section 498A I.P.C. The learned counsel submitted that in those paragraphs, there is no material against the petitioner and in support of his contention, he placed the paragraph 10, 11, 12, 13 and 14 of the case diary.

Perused the order taking cognizance dated 18.05.2012. From perusal of the order, it appears that the court below specifically stated that there are sufficient materials in paragraph 10 to 14 of the case diary against this petitioner also. The photocopy of the case diary is produced before me at the time of hearing of this application. From perusal of the same, it appears that there is also similar allegation against this petitioner along with the other co-accused persons. Now, therefore, the question is whether while exercising inherent jurisdiction under Section 482 Cr.P.C., this Court can embark upon the evidences and record any finding as to whether in fact, the allegation made in the F.I.R. is true or not.

The Hon'ble Supreme Court in the case of **Central Bureau of Investigation v. K.M. Sharan, (2008) 4 supreme court cases 421** has held that on the basis of the material available on record and the allegations leveled against the respondent in the F.I.R. and charge sheet, it cannot be concluded that no ingredients



of offence under Section 120B read with Section 193 I.P.C. are present in the instant case. At this stage, the High Court in its jurisdiction under Section 482 Cr.P.C. was not called upon to embark upon the inquiry whether the allegations in the F.I.R. and the charge sheet were reliable or not and thereupon to render definite finding about truthfulness or veracity of the allegations. These are matters which can be examined only by the Court concerned after the entire material is produced before it on a thorough investigation and evidence is led. The High Court ought to have critically examined whether the allegations made in the F.I.R. and the charge sheet taken on their face value and accepted in their entirety would prima facie constitute an offence for making out a case against the respondent.” It appears that in that case, the High Court had quashed the F.I.R.. The Supreme Court considering various decisions has set aside the order of the High Court and directed the C.B.I. to produce the necessary materials and evidences before the court concerned. In the present case also, as stated above, from the statement of the witnesses examined in paragraph 10 to 14 of the case diary, as has been found by the court below, appears to be sufficient materials for taking cognizance against the petitioner. It is settled principles of law that on strong suspicion also, the cognizance can be taken.

The learned counsel for the petitioner submitted that in Cr. Misc. No.40791 of 2014 that has been filed by the mother-in-law of the victim, further proceeding has already been stayed and the matter has been referred to Mediation Centre. If that is the fact, the petitioner is also at liberty to go along with accused persons in the Mediation Centre but on that ground, the impugned order cannot be quashed.

In the result, this criminal miscellaneous application is dismissed.

**(Mungeshwar Sahoo, J)**

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