

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.26739 of 2013

Arising Out of PS.Case No. -767 Year- 2007 Thana -GOPALGANJ COMPLAINT CASE District-
GOPALGANJ

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Imteyaz Khan , son of Late Alauddin Khan, Resident of Village-
Jeenapatti, P.S.- Mirganj, District- Gopalganj

.... Petitioner

Versus

1. The State of Bihar

2. Musharat Jahan @ Bibi Khatoon W/O Imteyaz Khan, resident of Village-
Jeenapatti, P.S.- Mirganj, District- Gopalganj

.... Opposite Parties

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Appearance :

For the Petitioner/s : Mr. Dhananjay Kumar

For the Opposite Party/s : Mr. Zainul Abedi (App)

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CORAM: HONOURABLE MR. JUSTICE RAKESH KUMAR
ORAL ORDER

3 28-04-2016 Heard Sri Dhananjay Kumar, learned counsel for

the petitioner, Mr. Zainul Abedi, learned Addl. Public Prosecutor
and Mr. Ghulam Rabbani, learned counsel, who has appeared on
behalf of Opp.Party no.2.

The petitioner, invoking inherent jurisdiction under
Section 482 of the Code of Criminal Procedure, has prayed for
quashing of an order dated 20.03.2013 passed by the learned 2nd
Addl. Sessions Judge, Gopalganj in Cr.Revision No.444 of 2012.
By the said order, the learned Addl. Sessions Judge has rejected
the revision petition preferred by the petitioner against the order
rejecting the discharge petition filed by the petitioner under
Section 245 of the Code of Criminal Procedure.



Learned counsel for the petitioner firstly argued that the petitioner was alleged that he was pressurizing the complainant side to transfer some land. According to learned counsel for the petitioner, such allegation does not constitute an offence under Section 498A of the Indian Penal Code. He further submits that even the revisional court in paragraph-6 of its impugned order has noticed that only two witnesses were examined on behalf of the complainant in support of the complainant's case. It has been argued that in the nature of such type of offence, it was necessary to get examined some witnesses coming from the area. However, no such witnesses were produced and only interested witnesses were examined. He further submits that the complaint was filed on an apprehension that the petitioner may solemnize second marriage.

Learned Addl. Public Prosecutor and learned counsel for the complainant/Opp.Party no.2 have opposed the prayer of the petitioner. Learned counsel for the complainant/Opp.Party no.2 on question being asked by the Court as to whether there is any possibility for settlement or not, he has categorically stated that there is no possibility for settlement since the petitioner has already deserted his wife/Opp.Party no.2. He further submits that during enquiry witnesses had categorically



supported the complainant's case and only thereafter, order of cognizance was passed and after cognizance, before charge, witnesses were examined and when the case has come to the stage of charge, only and only with a view to delay the proceeding before the court below, a petition was filed for discharge, which was rejected by the learned Magistrate. He submits that in the order rejecting the discharge petition, there is no apparent error. He further submits that once the order of rejection of discharge petition filed by the petitioner was approved by the revisional court, in normal course, the petitioner was not entitled to file a petition under Section 482 of the Code of Criminal Procedure.

Besides hearing learned counsel for the parties, I have also perused the material available on record. On going through the material available on record, particularly the order rejecting the discharge petition, I do not find any apparent error warranting interference. Moreover, the order rejecting the discharge petition has already been approved by the revisional court and, as such, in normal course, the petition filed under Section 482 of the Code of Criminal Procedure may not be entertained in view of the fact that such petition is termed as second revision, which is barred under Section 397(3) of the Code of Criminal Procedure. Moreover, in view of no error in the order

of the learned Magistrate, I do not find any ground to interfere with the matter.

The petition stands dismissed.

Keeping in view the fact that the order of rejection of discharge petition was filed on 06.06.2012 and complaint was filed in the year 2007, while dismissing the present petition, it is desirable to direct the court below to proceed with the case expeditiously, so that the case may come to its logical end without unnecessary delay.

(Rakesh Kumar, J)

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