

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.12413 of 2012

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Jarifur Rahman , son of Late Abdul Qayum, resident of village- Bagheli,
P.S. Jadia, District- Supaul

.... Petitioner

Versus

1. The State of Bihar
2. Bibi Anjum Ara, w/O Jarifur Rahman D/O Md. Yusuf, at present
residing at village- Raibhir, Tola Najirabad, P.S. Shankarpur, District-
Madhepura

.... Opposite Parties

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Appearance :

For the Petitioner/s : Mr. S.M.Ashraf, Adv.

For the Opposite Party/s : Mr. Ram Anurag Singh (App)

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CORAM: HONOURABLE MR. JUSTICE RAKESH KUMAR
ORAL ORDER

9 09-11-2016

Heard Mr. S.M. Ashraf, learned counsel for the
petitioner, Sri Ram Anurag Singh, learned Addl. Public Prosecutor
as well as Sri Tej Pratap Singh, learned counsel, who has appeared
on behalf of the complainant/Opp.Party no.2.

The petitioner, husband of Opp.Party no.2, has
approached this Court, invoking its inherent jurisdiction under
Section 482 of the Code of Criminal Procedure, with a prayer to
quash an order, which was passed on 02.01.2012 in Complaint
Case No.122/11 by the learned Sub Divisional Judicial Magistrate,
Madhepura. By the said order, the learned Magistrate had found
prima facie case under Section 498A and 323 of the Indian Penal
Code and directed for summoning the petitioner.

Earlier, by order dated 18.12.2012, the matter was referred to Patna High Court Mediation & Conciliation Centre. Subsequently, a report of the Mediator was received, which shows that settlement had not arrived. Thereafter, the matter was heard on merit.

At the very out, Mr. Ashraf, learned counsel for the petitioner submitted that the petitioner is ready to settle the dispute with the complainant. However, learned counsel for the complainant, on instruction, submits that there is no question of settlement.

At the time of hearing, Mr. Ashraf, learned counsel for the petitioner, by way of referring to facts disclosed in the complaint petition, submitted that in the complaint petition, there are two parts of the allegation. First part of the allegation relates to commission of offence by the petitioner along with his other family members and in the second part, an improbable allegation was made that the petitioner was having illicit relation with his own sister. He submits that in the first part of the allegation, the learned Magistrate after conducting enquiry has exonerated other accused persons and proceeded only against the petitioner. It has been argued that since on the same set of allegation, other accused persons were exonerated, same relief was required to be granted to

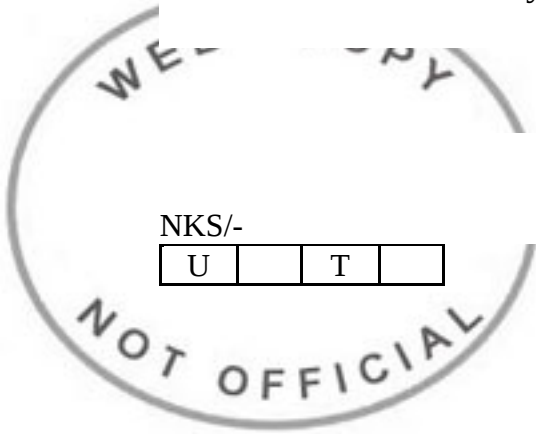
the petitioner. On the second point, he submits that the allegation that the petitioner was having illicit relation with his own sister, is improbable and on this ground, order of cognizance, so far as the petitioner is concerned, is required to be interfered with.

Learned counsel for the complainant submits that in the complaint petition besides making allegation against other accused, there is specific accusation against the petitioner, particularly the fact that the petitioner himself on one occasion had brutally assaulted the complainant. The petitioner, who was doing work as builder at Hyderabad, after return from Hyderabad, had demanded huge amount for the purpose of business and the complainant was tortured. He submits that only on the ground that the learned Magistrate has incorrectly exonerated other accused persons, the petitioner may not be allowed to make a prayer for committing same error.

Besides hearing learned counsel for the parties, I have also perused the material available on record, particularly the complaint petition. After going through the complaint petition as well as the impugned order, the Court is of the opinion that while summoning the petitioner, the learned Magistrate has committed no error.

Accordingly, the petition stands dismissed.

In view of dismissal of this petition, interim order
of stay dated 18.12.2012 stands automatically vacated.



(Rakesh Kumar, J)