

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.41578 of 2014

Arising Out of PS. Case No.-645 Year-2012 Thana- PATNA COMPLAINT CASE District-
Patna

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Rajiv Kumar @ Rajiv Singh Son of Yogendra Singh @ Yogi Singh Resident
of Village - Nadwan, P.S.- Barh, District -Patna

... .. Petitioner/s

Versus

1. The State of Bihar
2. Sita Ram Singh Son of Late Natho Singh Resident of Village - Pandarak, P.S.-
Pandarak, District - Patna.
3. Moni Devi w/o Rajiv Kumar @ Rajiv Singh, d/o Sita Ram Singh, r/o Village
Pandarak, P.S. Pandarak, Dist. Patna.

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Onkar Nath, Adv
For the Opposite Party/s : Mr. RANA RANDHIR SINGH (APP)

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CORAM: HONOURABLE MR. JUSTICE S. KUMAR
ORAL JUDGMENT

Date : 13-12-2017

Heard learned counsel for the parties.

This petition under Section 482 of the Cr.P.C
has been filed for quashing the order dated 01.08.2013
passed by learned Judicial Magistrate, 1st Class, Barh in
connection with C.R. No. 645C of 2012, by which
cognizance under Section 498A of the IPC has been taken
against the petitioner.

Briefly stated, the facts of the case as per



Complaint Case No. 645C of 2012 is that the daughter of the complainant was married with petitioner-Rajiv Singh in the year 2006 as per hindu rites and customs. The daughter of the complainant went to her Sasural and thereafter dowry was demanded and due to non fulfillment of dowry demand, she was subjected to torture and harassment. A sum of Rs. 50,000/- was demanded by the family members of the petitioner-husband, for which she expressed inability and after that she was abused and tortured. The daughter of the complainant became pregnant and on 11.01.2010 on account of non fulfillment of demand of dowry, she was ousted from her matrimonial home and went to her parental home. Thereafter she was admitted in local hospital at Barh where she was operated and a dead fetus came out and after that Barh P.S. Case No. 15 of 2010 was registered.

It has been contended by learned counsel for the petitioner that the petitioner is innocent and has been falsely implicated in this case. Police after investigation submitted final form against the petitioner and one protest petition filed by the informant, was converted into complaint case.



The complainant was examined on S.A. by the court below and in support of his complaint case, five enquiry witnesses were also examined by the court below and on the basis of S.A. of complainant and statement of enquiry witnesses, the court below found *prima facie* case to be made out against the petitioner and took cognizance of the offence under Section 498A of the IPC and issued summon for his appearance to face the trial.

At the stage of taking cognizance the court has to form an opinion that *prima facie* case on the basis of materials available on record against the accused is made out or not. The defence of the accused cannot be considered at the time of taking cognizance. This Court also in its inherent jurisdiction cannot substitute its view regarding sufficiency of material before the court below and substitute its view against summons order issued by the trial court, as such I am not inclined to interfere with the order dated 01.08.2013, at this stage.

However, the petitioner will be at liberty to raise all the issues raised before this Court as well as other points available to him in accordance with law at subsequent stage



i.e. at the time of filing of discharge petition/framing of charge, if not already framed.

With the said observation and liberty, this petition is disposed of.

(S. Kumar, J)

ranjan/-

AFR/NAFR	NAFR
CAV DATE	N.A.
Uploading Date	18.12.2017
Transmission Date	18.12.2017

