

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.27497 of 2013

Arising Out of PS.Case No. -185 Year- 2012 Thana -MUNGER COMPLAINT CASE District-
MUNGER

- =====
1. Sanjay Kumar, S/O Rajendra Pandit,
 2. Rajendra Pandit @ Rajendra Pd. Pandit, S/O Late Shiv Dayal Pandit,
 3. Savitri Devi, W/O Rajendra Pandit,
 4. Laxmi Kumari, D/O Rajendra Pandit, all resident of Nawagarhi, Charaun Path, Maniarchak, P.S.- Nayaram Nagar (Munger), District- Munger
- Petitioner/s

Versus

1. The State of Bihar
 2. Archana Kumari @ Munni, W/O Shri Sanjay Kumar, and D/O Shri Satyendra Prasad, resident of Q. No. 478 EF, Rampur Railway Colony, P.S.- Jamalpur, District- Munger
- Opposite Party/s
- =====

Appearance :

For the Petitioner/s : Mrs. Soni Srivastava, Advocate
Mrs. Madhuri Kumari, Advocate
For the Opposite Party No.1: Mr. Ansharul Haque, Advocate
For the Opposite Party No.2: Mr. Kamal Kishore Jha, Advocate

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CORAM: HONOURABLE MR. JUSTICE SANJAY PRIYA

CAV JUDGMENT

Date: 06-02-2017

1. This application under Section 482 of the Code of Criminal Procedure has been filed for quashing the order dated 08.02.2013 passed by the *Ad hoc* Additional Sessions Judge-III, Munger, in Criminal Revision No.255 of 2012, whereby the learned Judge has dismissed the revision application as also for quashing the entire proceeding including the order of cognizance dated 17.08.2012 passed by the Sub-Divisional Judicial Magistrate, Munger, in Complaint Case No.185-C of 2012 by which the learned Magistrate



after holding enquiry has found *prima facie* case against these petitioners for the offence under Section(s) 498-A Indian Penal Code and Section 34 of the Dowry Prohibition Act.

2. Heard learned counsel for the petitioners and the learned APP for the State as well as counsel for the Opposite Party No.2.

3. Learned counsel for the Petitioners has submitted that prior to filing of the complaint case, petitioner No.1 had filed Divorce case being Matrimonial Case No.153 of 2011 before the Principal Judge, Family Court, Munger, on 03.08.2011, for grant of divorce on the ground of cruelty and adultery. The complainant had filed the complaint case after getting knowledge of divorce case filed by the petitioner No.1. The complainant earlier also filed complaint case being Complaint Case No.809-C of 2011 against the accused persons for the offence under Section 498-A Indian Penal Code in the Court of the Chief Judicial Magistrate, Munger, in which the complainant had filed petition for withdrawal of the said case.

4. Learned counsel for the Opposite Party No.2 has submitted that the complainant had filed petition for withdrawal of the earlier case i.e. Complaint Case No.809-C of 2011 on the assurance given by the father-in-law, Rajendra Pandit, that Divorce Case would also be withdrawn, but the same was not withdrawn.



Hence, the present complaint i.e. Complaint Case No.185-C of 2012 (instant case) has been filed.

5. Counsel for the Opposite Party No.2 further submits that the second revision application has been filed in the garb of 482 Cr. P. C. as the order of cognizance has already been challenged by these petitioners before the learned Sessions Judge, Munger, vide Cr. Revision No.255 of 2012, which was rejected by the *Ad hoc* Additional Sessions Judge-III, Munger, by his order dated 08.02.2013.

6. From perusal of the impugned order and the materials available on record as well as allegation in the Complaint Petition, this Court finds that besides Solemn Affirmation of the complainant, statement of three witnesses, namely, (i) Meena Devi (mother of the complainant), Amit Kumar (brother of the complainant) and Adesh Kumar Pandit was also recorded during enquiry under Section 202 Cr. P.C. The learned Magistrate after looking into Solemn Affirmation of the complainant, statement of three witnesses, and the allegation in the Complaint Petition found *prima facie* case against these petitioners for the offence under Section(s)498-A Indian Penal Code and Section 34 of the Dowry Prohibition Act, by order dated 17.08.2012.

7. The petitioners had challenged the aforesaid order



before the learned Sessions Judge, Munger, vide Cr. Revision No. 255 of 2012, which was dismissed by the *Ad hoc* Additional Sessions Judge-III, by the impugned order dated 08.02.2013.

8. On perusal of order of learned Additional Sessions Judge, this Court finds that the same is self-speaking and has been passed after considering both law and facts. This Court does not find any illegality or irregularity in the same.

9. The High Court in quashing applications rarely interferes in the revisional order unless the Court finds apparent irregularity or illegality committed by the Court.

10. This Court, therefore, does not find any merit in this quashing application, which has been filed as second revision application in the garb of 482 Cr. P. C. against the order dated 08.02.2013 passed by the *Ad hoc* Additional Sessions Judge-III, Munger, in Criminal Revision No.255 of 2012.

11. The application is, accordingly, dismissed.

(Sanjay Priya, J)

J.Alam/-

AFR/NAFR	NAFR
CAV DATE	19-01-2017
Uploading Date	11-02-2017
Transmission Date	11-02-2017

