

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.43969 of 2013

Arising Out of PS.Case No. -376 Year- 2013 Thana -PATNA COMPLAINT CASE District-
PATNA

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1. Ranjeet Kumar Mishra S/O Late Kamleshwari Prasad Mishra Resident Of
Village- Siwayari, P.S.- Sabaur, District- Bhagalpur

.... Petitioner/s

Versus

1. The State Of Bihar

2. Munni Devi W/O Ranjeet Kumar Mishra Resident Of Village- Siwayari, P.S.-
Sabaur, District- Bhagalpur. At Present Living At In The House Of Birju Yadav At
Chauhatta Gali (Gorhatta), P.S.- Khajekala, District- Patna

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr.

For the Opposite Party/s : Mr.

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CORAM: HONOURABLE MR. JUSTICE SANJAY PRIYA

ORAL JUDGMENT

Date: 13-04-2017

The present petition has been filed for quashing the order dated 27-08-2013 passed by the learned Sub Divisional Judicial Magistrate, Patna City in Complaint Case No. CA 376/2013, by which and whereunder, the learned Magistrate took cognizance against the petitioner for the offence under Section-498A of the Indian Penal Code.

Heard learned counsel for the petitioner. Though opposite party No. 2 has already appeared through Vakalatnama and name of the counsel for opposite party No. 2 is appearing in daily cause list but no one appears on behalf of opposite party No. 2.

The petitioner is husband of the complainant.

It has been submitted on behalf of the petitioner that after retirement, he has paid half of the amount of retiral dues to opposite party No. 2 who is his second wife and presently, she is living with him but in spite of that, the present case has been filed.



From the impugned order, it appears that learned Magistrate has after holding inquiry, found prima facie case against the petitioner on the basis of SA of the complainant and statement of other three witnesses recorded during enquiry. The Zerox copy of SA of the complainant and statement of three witnesses are available on the record. All the witnesses have supported the case in their statement during inquiry u/S 202 of the Cr.P.C. The learned Magistrate is only required to see whether prima facie case is made out or not on the basis of allegation made in the complaint and statement of witnesses recorded during enquiry including S.A. of the complainant.

Therefore, this court does not find any illegality in the impugned order. Accordingly, this Cr. Misc. Application is dismissed.

However, the petitioner is given liberty to raise all the points as raised in this petition before the court below at the time of framing of charge.

In the event, both the petitioner and opposite party No. 2 agrees to live together, the opposite party No. 2 will file necessary petition before the court below for passing appropriate order in accordance with law.

(Sanjay Priya, J)

A.K.V./-

AFR/NAFR	
CAV DATE	
Uploading Date	21-04-2017
Transmission Date	21-04-2017

