

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.53654 of 2013

Arising Out of PS.Case No. -1788 Year- 2012 Thana -MUZFFARPUR COMPLAINT CASE
District- MUZAFFARPUR

- =====
1. Abu Yusuf Jafri @ Yusuf Jafri Son Of Late Munshi Ali Baksh R/O Mohalla- Rahmanganj, Masjid Chauk, P.S.- Nagar, District- Madhepura
 2. Hasmun Nisha @ Hasbun Nisha Wife Of Abu Yusuf Jafri @ Jusuf Jafri R/O Mohalla- Rahmanganj, Masjid Chauk, P.S.- Nagar, District- Madhepura

.... Petitioner/s

Versus

1. The State Of Bihar
2. Akbari Khatoon Wife Of Md. Arshad Akhtar, Daughter Of Md. Mumtaz R/O Mohalla- Bakshi Colony, Ramraji Road, P.S.- Kazi Mohammadpur, District- Muzaffarpur

.... Opposite Party/s

=====

Appearance :

For the Petitioner/s : Mr. Uday Chand Prasad
For the Opposite Party/s : Mr. Anusuiya Jaiswal

=====

CORAM: HONOURABLE MR. JUSTICE ARVIND SRIVASTAVA

C.A.V. JUDGMENT

Date: 25-07-2017

Heard learned counsel for the parties.

Petitioner, by means of this application under section 482 of the Code of Criminal Procedure, have invoked the inherent jurisdiction of this Court with prayer to quash the order dated 16.11.2012, passed by Sub-Divisional Judicial Magistrate, East Muzaffarpur, in Complaint Case No. 1788 of 2012, Tr. No. 2024 of 2013, whereby prima facie case has been found against petitioners for the offence under sections 323, 498A, 34 of the Indian Penal Code.

The contention of the learned counsel for the petitioner



is that no offence against the petitioner is disclosed and the present prosecution has been instituted with mala fide intention for the purposes of harassment.

Learned counsel appearing for the State opposes the application by contending that there are allegations against the petitioner and no ground for quashing the entire proceedings is made out.

From perusal of the material on record and looking into the facts of the case at this stage, it cannot be said that no offence is made out against the petitioner. All the submissions made at bar relates to the disputed question of fact, which cannot be adjudicated upon by this Court in exercise of power conferred under section 482 Cr. P.C. Only a prima facie satisfaction of the Court about the existence of sufficient ground to proceeding in the matter is required. The submission made by the learned counsel for the petitioner call for adjudication on pure questions of fact which may be adequately gone into by the trial Court in this case. This Court does not deem it proper, and therefore cannot be persuaded to have a pre-trial before the actual trial begins. The disputed defence of the accused cannot be considered at this stage. Moreover, the petitioner has got a right of discharge through a proper application for the said purpose and he is free to take all the submissions in the said discharge application



before the trial Court. The prayer for quashing the impugned order is refused.

The application accordingly stands dismissed.

(Arvind Srivastava, J)

Manish/-

AFR/NAFR	NAFR
CAV DATE	01.05.2017
Uploading Date	27.07.2017
Transmission Date	27.07.2017

