

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.37469 of 2014

Arising Out of PS.Case No. -437 Year- 2008 Thana -BHAGALPUR COMPLAINT CASE District-
BHAGALPUR

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Md. Jahangir @ Md. Jahangir Ali Son of Jaffar @ Jafu Resident of
Mohalla - Bari Khanjarpur, P.S.- Barari, District- Bhagalpur.

.... Petitioner

Versus

1. The State of Bihar.
2. Bibi Noorsaba, Wife of Md. Sagir, Resident of Haldibara, Pankha Tola,
Mohiuddinagar, P.S.- Habibpur, District - Bhagalpur.

.... Opposite Parties

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Appearance :

For the Petitioner/s : Mr. Ajay Kumar Jha, Advocate

For the Opposite Party/s : Mr. Anant Kumar(App)

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CORAM: HONOURABLE MR. JUSTICE ARUN KUMAR
ORAL ORDER

6 29-08-2017 The petitioner, by filing application under Section 482 of
the Code of Criminal Procedure, 1973, seeks quashing of the order
dated 18.12.2013 passed by Mr. B.K. Ray, Judicial Magistrate,
Bhagalpur in Complaint Case No.437 of 2008 thereby taking
cognizance of offence under Section 376 of the Indian Penal code
and has issued summons against the petitioner to stand trial.

Learned counsel for the petitioner submits that the
petitioner is own brother-in-law of the victim and she filed this
malicious case for the reason that the petitioner refused to help her
in pursuing other frivolous cases lodged against other persons. He
also submits that the complaint was filed after much delay and
there is no medical report of the prosecutrix on the record.



Learned counsel appearing on behalf of behalf of opposite party no.2, the complainant, submits that earlier a complaint case was filed soon after the occurrence in the year 2007 itself but that was dismissed for non-prosecution, thereafter, this present complaint case has been filed and the allegations is specific and there was no delay in lodging the complaint moreover the defence of the petitioner accused cannot be considered at this stage.

Having considered rival submissions of both sides and on perusal of record, this Court finds that the allegation levelled in the complaint and materials elicited during enquiry do make out offence against the petitioner and the disputed question of fact cannot be looked into in the quashing application, so this application stands dismissed.

(Arun Kumar, J)

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