

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.35834 of 2017

Arising Out of PS. Case No.-168 Year-2014 Thana- NASRIGANJ District- Rohtas

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Shashi Bhushan Ranjan Son of Shiv Bachhan Prasad resident of village Kath
Khauliya, P.S. Nasriganj, District Rohtas.

... .. Petitioner/s

Versus

1. The State of Bihar.
2. Rinki Devi Wife of Shashi Bhushan Ranjan resident of village Kathkhauliya,
P.S. Nasriganj, District - Rohtas.

... .. Opposite Party/s

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Appearance :

For the Petitioner/s	:	Mr. Ashok Kumar Mishra, Adv
For the State	:	Mr. SRI TARUN PRASAD MANDAL, APP

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CORAM: HONOURABLE MR. JUSTICE S. KUMAR
ORAL JUDGMENT
Date : 31-07-2017

Heard learned counsel for the parties.

The present application under Section 482 of the Cr.P.C has been filed for quashing the order dated 17.06.2016, passed in Nasriganj P.S. Case No. 168 of 2014 (G.R. No. 142 of 2014) passed by the learned Sub-Judge 1st cum A.C.J.M. Bikramganj, Rohtas, by which cognizance has been taken against the petitioner for the offence under Sections 498A, 341, 323 and 494 of the Indian Penal Code.

Briefly stated, the facts of the case is that



Opposite Party No. 2 had lodged an FIR against the petitioner and his family members being Nasriganj P.S. Case No. 168 of 2014 registered for the offence under Sections 341, 324, 307, 498A, 120B, 494/34 of the Indian Penal Code.

The informant-opposite party no. 2 has alleged in the FIR that on 12.12.2014 at about 10:30 pm, she was going to Nasriganj from Patna bus-stand and when she reached at Patna bus-stand along with her son Piyush Kumar then her husband, brother-in-law and one unknown person assaulted her by knife. However, on her raising alarm, all accused persons fled away. It has been further alleged that accused persons named in the FIR tortured her. The petitioner has stated in his petition that complainant-Opposite Party No. 2 is not his legally wedded wife. The petitioner had married one Usha Devi on 20.04.2000 and subsequently the marriage was dissolved from decree of divorce in the year 2009.

After investigation, police submitted chargesheet against the petitioner under Sections 341, 324, 307, 498A, 120B, 494/34 of the Indian Penal Code on



18.03.2016. Police did not find the case to be true against other accused persons named in the FIR and as such they were not sent up for trial.

On the basis of the case diary, chargesheet, police paper, the court below took cognizance against the petitioner on 17.06.2016 for the offence under Sections 498A, 341, 323 and 494 of the Indian Penal Code.

At the stage of taking cognizance the court has to only see that any prima facie case is made out against the accused or not. Any defence to be taken by the petitioner can be raised in course of trial and cannot be raised at the initial stage of prosecution. The learned court below has taken cognizance of the offence on the basis of the case diary, chargesheet and the materials available on record.

The High Court cannot substitute its view for the summoning order passed by the Magistrate while exercising inherent jurisdiction under Section 482 of the Cr.P.C.

For the reasons stated above, I am not inclined to interfere with the order dated 17.06.2016, taking



cognizance against the petitioner, as such the present petition filed under Section 482 of the Cr.P.C is, dismissed.

However, it shall be open for the accused-petitioner to raise all the points which have been raised here, at the time of framing of charge.

(S. Kumar, J)

ranjan/-

AFR/NAFR	NAFR
CAV DATE	N.A.
Uploading Date	17.08.2017
Transmission Date	17.08.2017

