

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.37828 of 2014

Arising Out of PS.Case No. -392 Year- 2008 Thana -AURANGABAD COMPLAINT CASE
District- AURANGABAD

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Niranjan Kumar Son of Suresh Prasad Resident of Village - Mahamudpur,
P.S. - Anti, District - Gaya.

.... Petitioner/s

Versus

1. The State of Bihar.
2. Anita Kumari Wife of Niranjan Kumar, Daughter of Sri Ramdayal
Paswan Resident of Village - Mahamudpur, P.S. - Anti, District- Gaya, At
present reside at Village - Gamharia, P.S. - Goh, District - Gaya.

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Deepak Kumar, Advocate
For the Opposite Party/s : Mr. Shyam Kumar Singh (App)

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CORAM: HONOURABLE MR. JUSTICE ARUN KUMAR
ORAL ORDER

4 04-08-2017 Heard learned counsel for the petitioner and learned
counsel for the State.

Petitioner has filed this quashing application for
setting aside order dated 29.01.2009 passed by the S.D.J.M.,
Daudnagar, Aurangabad in Complaint Case No. C-392/2008
whereby cognizance has been taken under Sections 323, 379 and
498A of I.P.C.

Learned counsel for the petitioner submits that his
marriage was solemnized with opposite party no.2 on 25.04.2004
and she wanted to live separately so she left matrimonial home
and the petitioner has filed a matrimonial divorce suit. She never



appeared before the court below in this proceeding as well as in the divorce suit proceeding.

The learned APP supports the impugned order by submitting that prima facie case is made out against the petitioner and the petitioner happens to be the husband of the complainant.

Having considered the rival submission and on perusal of record, this Court does not find any ground for interfering with the cognizance order as there is specific allegation against the husband relating to torture and further demand of dowry. Filing of divorce suit by the husband cannot be a ground for setting aside the cognizance order. So the petition stands dismissed.

(Arun Kumar, J)

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