

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.42835 of 2011

Arising Out of PS.Case No. -0 Year- null Thana -null District- SEKHPURA

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Sushma Kumari

.... Petitioner/s

Versus

The State of Bihar & Anr

.... Opposite Party/s

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Appearance :

For the Petitioner : Mr. Navin Kumar, Adv.

For the State : Mr. Ahmad Ali, APP.

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CORAM: HONOURABLE MR. JUSTICE SANJAY PRIYA

ORAL JUDGMENT

Date: 06-10-2017

1. Heard learned counsel for the petitioner and learned counsel appearing for the State.

2. This petition has been filed for quashing the impugned order dated 28-08-2010 passed by learned Sub Divisional Judicial Magistrate, Sheikhpura in Complaint Case No. 98C of 2010 by which and whereunder, the learned Magistrate after inquiry has found prima facie case against the petitioner under Sections-424, 406, 494/34 of the Indian Penal Code.

3. It has been submitted on behalf of the petitioner that the complainant is completely a stranger. He has been set up by Gouri Shankar Singh, husband of this petitioner who has filed Matrimonial Case No. 775 of 2009, against this petitioner for declaring the marriage null and void.



4. Counsel for the petitioner has further submitted that the wife (petitioner) has filed a case against her husband Gouri Shankar Singh, under Sections-498A, 323, 34 of the Indian Penal Code bearing Beur P.S. Case No. 54 of 2009. She has also filed Maintenance Case No. 230(M) of 2009 before the Principal Judge, Family Court, Patna.

5. This case has been filed against the petitioner by her husband Gauri Shankar Singh through a stranger Kishore Singh (complainant) who has alleged in the complaint that his elder brother was married with this petitioner in the year, 1987 but he has nowhere disclosed the name of his elder brother in the entire complaint petition. It has further been submitted that from perusal of entire complaint, it appears that there is no any specific allegation of overt act against this petitioner. There is general and omnibus allegation against this petitioner.

6. This court after looking into the averments made in the complaint petition is of the view that this is a malicious prosecution filed at the instance of husband of this petitioner through a stranger to wreak vengeance with the petitioner for filing case against her husband, Gauri Shankar Singh under Sections-498A, 323, 34 of the Indian Penal Code vide Beur P.S. Case No. 54 of 2009.

7. Accordingly, the impugned order dated 28-08-2010



passed by learned Sub Divisional Judicial Magistrate, Sheikhpura as well as entire Criminal Proceeding of Complaint Case No. 98C of 2010 is hereby quashed with respect to the petitioner.

8. This Cr. Misc. Application is therefore allowed.

(Sanjay Priya, J)

A.K.V./-

AFR/NAFR	AFR
CAV DATE	
Uploading Date	17-10-2017
Transmission Date	17-10-2017

