

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.41331 of 2016

Arising Out of PS.Case No. -219 Year- 2015 Thana -JEHANABAD COMPLAINT CASE District-
JEHANABAD

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Manish Kumar son of Umesh Singh resident of Village - Kalyanpur, P.S. -
Kadirganj, District - Patna.

.... Petitioner/s

Versus

1. The State of Bihar.
2. Nutan Kumari wife of Manish Kumar resident of Village - Kalyanpur,
P.S. - Kadirganj, District - Patna, presently residing at C/o Janardan
Sharma, Village - Sheikhpura, P.S. - Ghoshi, District - Jehanabad.

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Madan Jeet Kumar

For the Opposite Party/s : Mr. Sri Jharkhandi Upadhyay

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CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR
SINGH
ORAL ORDER

02/ 20-04-2017

Heard learned counsel for the petitioner and

Mr. J.N. Thakur for the State.

The present application has been filed for
quashing the order dated 03.07.2015 passed by learned Additional
Chief Judicial Magistrate-IV, Jehanabad in Complaint Case No.
219 of 2015, whereby process have been directed to be issued
after cognizance being taken for the offences punishable under
Sections 323, 498A and 504 of the Indian Penal Code.

Learned counsel for the petitioner submits
that the petitioner never performed marriage with the complainant
and maliciously the case has been lodged.



At the stage of passing order under Section 190(1)(a) Cr.P.C. the learned Magistrate has only to see the prima facie case for the purpose of taking cognizance, as has been held in the case of Sonu Gupta Vs. Deepak Gupta & Ors., 2015(2) PLJR (SC) 321. Paragraph no. 7 reads as:-

“Having considered the details of allegations made in the complaint petition, the statement of the complainant on solemn affirmation as well as materials on which the appellant placed reliance which were called for by the learned Magistrate, the learned Magistrate, in our considered opinion, committed no error in summoning the accused persons. At the stage of cognizance and summoning the Magistrate is required to apply his judicial mind only with a view to take cognizance of the offence, or, in other words, to find out whether prima facie case has been made out for summoning the accused persons. At this stage, the learned Magistrate is not required to consider the defence version or materials or arguments nor he is required to evaluate the merits of the materials or evidence of the complainant, because the Magistrate must not undertake the exercise to find out at this stage whether the materials will lead to conviction or not.”

Moreover, the impugned order was passed on 03.07.2015 but there is nothing on record to suggest the present



stage of the case.

Hence, this application is disposed of with liberty to the petitioner to raise all the contentions at the appropriate stage of proceeding.

(Dinesh Kumar Singh, J)

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