

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.2184 of 2015

Arising Out of PS.Case No. -580 Year- 2014 Thana -EAST CHAMPARAN COMPLAINT District-
EASTCHAMPARAN(MOTIHARI)

- =====
1. Saroj Kumar Dubey Son of Narmdeshwar Dubey
 2. Bindhyachal Devi@Bindhyachal Kunwar Wife of Late Narmdeshwar Dubey Both are residents of village-Sarotar,P.S-Dumaria Ghat,East Champaran,presently residing at Mohalla-Shrikrishna Nagar,P.S-Motihari Town,Distt.-East Champaran

.... Petitioner/s

Versus

1. The State of Bihar
2. Priya Choubey Wife of Saroj Kumar Dubey,D/O;Chandra Kishore Choubey Resident of Mohalla-Shrikrishna Nagar,P.S-Motihari Town,Distt.-East Champaran,at present Mohalla-Belbanwa Ward No.22 P.S-Motihari Town,Distt.-East Champaran
3. Chandra Kishore Choubey S/O Late Sukdeo Choubey Resident of Mohalla-Belbanwa P.S-Motihari Town,Distt.-East Champaran

.... Opposite Party/s

=====

Appearance :

For the Petitioner/s : Mr. Binay Kant Mani Tripathi, Adv.

For the Opposite Party/s : Mr. Aditya Nr. Singh1 (APP)

For the Opposite Party No.2 & 3: Mr. Vijay Shankar Shrivastava, Adv.

=====

CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR JHA

ORAL ORDER

4 06-03-2017 Heard Mr. Binay Kant Mani Tripathi, learned counsel for the petitioners and Shri Vijay Shankar Shrivastava, learned counsel for the Opposite Party Nos. 2 and 3.

The learned counsel for the petitioners has assailed the order dated 11.12.2014 passed in Complaint Case No. 580 of 2014, Trial No.9624 of 2014 by which the learned Chief Judicial Magistrate, Motihari found a prima facie case under Sections 498A/ 323/506 of the Indian Penal Code and under Section 3/4 of



the Dowry Prohibition Act.

The learned counsel for the petitioners submits that the complainant was examined on S.A. and the complainant also examined the witnesses, but the learned Chief Judicial Magistrate did not even take into consideration the evidence of any of the witnesses and passed the order in a mechanical way and found the case under Sections 498A/ 323/506 of the Indian Penal Code and under Section 3/4 of the Dowry Prohibition Act.

Mr. Vijay Shankar Shrivastava, learned counsel for the opposite party nos. 2 and 3, has submitted that of course the learned Magistrate has not adverted any evidence of the complainant and his witnesses, but he perused the records.

Having considered the facts aforesaid and submission, I find that the impugned order does not give any reason on the basis of which the learned Chief Judicial Magistrate found the prima facie case as no evidence of the complainant or any of his witnesses has been taken into consideration. Even Section 204 Cr.P.C. enjoins the Magistrate to briefly discuss the evidence of witnesses as to whether the prima facie case is made out or not, but the learned Magistrate has not at all discussed the evidence of the witnesses collected during the course of enquiry. Therefore, I find that the order is not sustainable on this ground alone that the



order sans reasoning which is a soul of judicial order.

According, this quashing petition is allowed and order dated 11.12.2014 passed in Complaint Case No. 580 of 2014 is quashed and the matter is remitted back to the learned Chief Judicial Magistrate to pass an order afresh in accordance with law.

(Prabhat Kumar Jha, J)

BTiwary/-

U		T	
---	--	---	--

