

**IN THE HIGH COURT OF JUDICATURE AT PATNA**

**Criminal Miscellaneous No.14243 of 2014**

Arising Out of PS.Case No. -1560 Year- 2011 Thana -DARBHANGA COMPLAINT CASE  
District- DARBHANGA

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1. Suman Kumar @ Suman Kumar Jha S/O Raghbendra Jha  
2. Raghbendra Jha S/O Late Kedar Jha  
3. Dharmsheela Devi W/O Raghbendra Jha  
4. Chaman Jha @ Chaman Kumar Jha S/O Raghbendra Jha  
5. Rupa @ Rupa Kumari D/O Raghbendra Jha All Resident Of Village -  
Hariharpur, P.S. - Kamtaul, District - Darbhanga, At Present Raghbendra Jha,  
Mohalla - Nathupura, Q. No. - 1477, P.O. - Swarupnagar, District - Burari, Delhi

.... .... Petitioner/s

Versus

1. The State Of Bihar  
2. Nitu Kumari W/O Suman Kumar Resident Of Village - Hariharpur, P.S. -  
Kamtaul, District - Darbhanga, D/O Sri Mohan Jha, Resident Of Village - Baruara  
Bahadurpur Fekla, O.P., District - Darbhanga

.... .... Opposite Party/s

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**Appearance :**

For the Petitioner/s : Mr. Diwakar Prasad Karn  
For the Opposite Party/s : Mr. Navin Kumr Pandey

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**CORAM: HONOURABLE MR. JUSTICE ARVIND SRIVASTAVA**

**C.A.V. JUDGMENT**

**Date: 24-08-2017**

Heard learned counsel for the parties.

Petitioners, by means of this application under section 482 of the Code of Criminal Procedure, have invoked the inherent jurisdiction of this Court with prayer to quash the order dated 25.10.2011, passed by Sub Divisional Judicial Magistrate, Darbhanga, in C.R. No. 1560 of 2011, whereby cognizance has been taken against the petitioners for the offences under section 498A, 313 of the Indian Penal Code and sections 3/4 of the Dowry Prohibition Act.



The contention of the learned counsel for the petitioner is that no offence against the petitioner is disclosed and the present prosecution has been instituted with mala fide intention for the purposes of harassment. They have been falsely implicated in the present case. Petitioner no. 1, who is husband of the complainant, filed a petition for dissolution of marriage by decree of divorce. On getting knowledge of the same, the present false case has been lodged. Learned counsel submits that provisions of section 498A I.P.C. should not be used as a device to achieve oblique motive. In support of the above submission, learned counsel placed reliance on the judgment reported in 2008 (1) Supreme Court Cases (Cri.) 507.

Learned counsel appearing for the State opposes the application by contending that there are allegations against the petitioner and no ground for quashing the order taking cognizance is made out.

From perusal of the materials available on record and looking into the facts of the case at this stage, it cannot be said that no offence is made out against the petitioner. Only a prima facie satisfaction of the Court about the existence of sufficient ground to proceed in the matter is required. At this stage only prima facie case is to be seen in the light of the law laid down by Supreme Court in cases of R.P. Kapur Vs. State of Punjab, A.I.R. 1960 SC 866, State



of Haryana Vs. Bhajan Lal, 1992 SCC (Cr.) 426, State of Bihar Vs. P.P. Sharma, 1992 SCC (Cr.) 192, Zandu Pharmaceutical Works Ltd. Vs. Mohd. Saraful Haq and another (Para-10) 2005 SCC (Cr.) 283 and recently in A.R.C.I. Vs. Nimra Cerglass Technics (P) Ltd. (2016) 1 SCC 348. The judgment cited by the learned counsel for the petitioner in on different set of facts, and as such, the same is not applicable in the facts and circumstances of the present case.

In view of the above discussion, I do not find any ground to interfere with the order taking cognizance. The prayer for quashing the same is refused.

The application accordingly stands dismissed. However, petitioners have got a right of discharge through a proper application and they are free to take all the submissions in the said discharge application before the trial Court.

**(Arvind Srivastava, J)**

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