

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

**Criminal Miscellaneous No.38942 of 2013**

Arising Out of PS.Case No. -245 Year- 2003 Thana -COMPLAINT CASE District- SUPAUL

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Upendra Choudhary, Son of Late Bhaddar Choudhary, Resident of Village Ghailarh, P.S.-Gamharia, District-Madhepura, at present working as Supervisor in Irrigation Department, Ranchi, Jharkhand.

.... .... Petitioner

Versus

1. The State of Bihar.  
2. Anar Devi, Wife of Upendra Choudhary, Resident of Village-Ghailarh, P.S.-Gamharia, District- Madhepura, at present Jai Kumar Choudhary, P.S. & District-Supaul, Nagar Parishad-19, District -Supaul.

.... .... Opposite Parties

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**Appearance :**

For the Petitioner/s : Dr. Shashi Shekhar Kishore, Advocate  
Mr. Abhay Krihna, Advocate  
For the Opposite Party no.2 : Mr. Bijay Kumar Pandey, Advocate  
Mr. Neeraj Nandan, Advocate  
For the State : Mr. Suresh Prasad Singh, APP

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**CORAM: HONOURABLE MR. JUSTICE ASHWANI KUMAR SINGH**

**ORAL JUDGMENT**

**Date: 02-05-2017**

This application under Section 482 of the Code of Criminal Procedure has been filed for quashing the order dated 30.01.2004 passed by the learned Sub Divisional Judicial Magistrate, Supaul in Complaint Case No. 245(C) of 2003 whereby the petitioner has been summoned to face trial for the offences punishable under Sections 498-A, 494 and 379 of the Indian Penal Code.

2. Heard learned counsel for the petitioner and learned counsel for the complainant on merits of the case.

3. Earlier, the matter was referred to the Mediator



by this Court. The Mediator submitted his report on 31<sup>st</sup> July, 2014, which is kept at flag 'C'. From perusal of the Mediator's report, it would appear that the petitioner voluntarily agreed to the following terms:-

- (i) To pay Rs.3,000/- per month to the complainant as maintenance;
- (ii) To give the name of the complainant as nominee in the pension papers;
- (iii) To transfer the ancestral land appertaining to Khata No. 525 (New) details of which is mentioned in the memorandum of agreement to the complainant;
- (iv) To give a cheque of Rs.1,00,000/- to the complainant for constructing house over the land.

4. It would be evident from the record that the cheque issued by the petitioner in favour of the complainant could not be honoured as the same remained on record and was never handed over to the complainant. So far as the other conditions are concerned, the petitioner has filed no affidavit showing that the above agreed terms have been complied with by him. Learned counsel for the petitioner has prayed for adjournment in order to ensure compliance of the aforestated agreed terms.

5. Keeping in mind the pendency of the present application since 10.09.2013 before this Court, I do not deem it fit and proper to adjourn the matter further in the name of compromise.



6. The complainant-opposite party no.2 has alleged in the complaint that the petitioner being her husband deserted her and took married another lady namely, Annu Singh during subsistence of the first marriage. She has alleged that when she protested about the conduct of the petitioner, the petitioner forcibly ousted her along with her children from the matrimonial home after retaining all her belongings.

7. The allegation made in the complaint has been supported by the complainant on oath and considering the materials available on record, the Magistrate has summoned the petitioner to face trial.

8. Since the allegations made in the complaint do attract the ingredients of a cognizance offence, I see no illegality in the order whereby the petitioner has been summoned to face trial.

9. Accordingly, the application, being devoid of any merit, is dismissed.

**(Ashwani Kumar Singh, J.)**

Sanjeet/-

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