

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.19314 of 2014

Arising out of P.S. Case No.2310 Year 2012 Thana BHAGALPUR COMPLAINT CASE District
BHAGALPUR

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Md. Asfaque Alam Son of late Md. Ishak resident of Mohalla-
Vishwanathganj, Ward No.-5, Khagaria, P.S.- Khagaria, Distt.- Khagaria
.... Petitioner

Versus

1. The State of Bihar
 2. Najma Khatoon W/o Md. Asfaque Alam, D/o Md. Haroon, Presently
residing at village Barahat Ishipur, P.S. Barahat, Distt. Bhagalpur
.... Opposite Parties
- =====

Appearance :

For the Petitioner/s : Mr. Manoj Kumar Singh

For the Opposite Party/s : Mr. Awadesh Kr.Singh(App)

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CORAM: HONOURABLE MR. JUSTICE ARUN KUMAR

ORAL ORDER

6 30-06-2017 Heard learned counsel for the petitioner and the

learned APP appearing on behalf of the State.

This quashing petition is filed for setting aside the
order taking cognizance dated 02.01.2012/02.01.2013, passed by
learned Judicial Magistrate, 1st Class, Bhagalpur in Complaint
Case No.2310 of 2012 whereby cognizance is taken under Section
498(A) of the Indian Penal Code.

Learned counsel for the petitioner submits that
though the petitioner is husband but it is the wife who does not
want to live with him and gives pressure for selling his shop and
move to Barahat where her parents home is situated. The
petitioner did not agree to the proposal so she left matrimonial
house. Moreover husband has also filed a case for restitution of



conjugal right.

The learned APP submits that there is no illegality in the order of cognizance and the petitioner is husband having specific allegation against him of torturing her for bringing more dowry.

The allegation in brief in the complaint, lodged by the wife, against the petitioner is that she was married in the year 2005 but she was being tortured by petitioner for bringing more dowry and also for protesting illicit relationship with another woman.

Having considered the rival submissions and considering the facts as alleged in the complaint petition as also materials on record, a prima facie case under Section 498(A) of the Indian Penal Code is made out against the petitioner so there is no ground for interfering with the order taking cognizance dated 02.01.2012/02.01.2013, passed by learned Judicial Magistrate, 1st Class, Bhagalpur in Complaint Case No.2310 of 2012.

Accordingly, this petition stands dismissed.

(Arun Kumar, J.)

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