

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.26376 of 2012

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Shankar Roy S/o Murlidhar Roy, resident of Village- Chandpur, P.S- Falka (Pokhia), District- Katihar.

.... Petitioner/s

Versus

1. State of Bihar
2. Lalita Devi W/o Subodh Jha Resident of Village- Gerere Tola Mofarganj, P.S- Katihar, District- Katihar.

.... Opposite Party/s

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Appearance:

For the Petitioner/s : Mr. Bhola Prasad, Advocate
Mr. Mukesh Kumar Jha, Advocate
For the State : Mr. Nawal Kishore Pd. (APP)

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CORAM: HONOURABLE MR. JUSTICE SANJAY PRIYA
ORAL ORDER

9 27-07-2017 The petitioner has challenged the order dated 19.4.2011 passed by the learned Chief Judicial Magistrate, Katihar in Falka(P) P.S. Case No. 204 of 2010 by which he has taken cognizance against this petitioner for the offence under Sections 498(A) of the Indian Penal Code and Sections 34 of the Dowry Prohibition Act on the basis of material available in the case diary after differing with the final form submitted by the Police.

Counsel for the petitioner has submitted that initially the case was registered by the informant for the offence under Sections 304(B), 201, 34 IPC and the Police after investigation submitted final form as untrue. Thereafter the court below after perusing the material available in case diary and the statement of victim girl recorded under Section 164 Cr.P.C. during investigation found sufficient material against this petitioner



(husband of the informant) to take cognizance for the offence under Section 498A IPC and ¾ of the Dowry Prohibition Act.

Case diary has been received.

The learned APP has submitted that the victim girl in her statement in paragraph-18 and the mother of the victim girl in her statement in paragraph-17 have supported the case of committing torture by this petitioner. Statement of victim girl has been recorded under Section 164 Cr.P.C. which is available in paragraph-24 of the Case Diary wherein also she has levelled specific allegation of committing physical and mental torture by the accused for demand of dowry.

In such circumstances, it appears that there are sufficient materials in the case diary. The Court is only required to see prima facie case at the time of taking cognizance.

Therefore, this Court does not find any illegality in the impugned order. Hence this application is dismissed.

Petitioner is given liberty to raise all the points as raised in this petition at the time of framing of charge before the court below, if the charge has not been framed till date, which shall be considered by the court below in accordance with law.

(Sanjay Priya, J)

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