

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.41808 of 2011

Arising Out of PS.Case No. -0 Year- null Thana -null District- SEKHPURA

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1. Md. Mushtaque, S/O Abul Mian,
 2. Abul Mian, S/O Late Albaks Mian,
 3. Hakimian Khatoon, W/O Abul Mian,
 4. Md. Astam, S/O Abul Mian,
 5. Munni Khatoon, W/O Md. Aslam, all resident of Rahmaniganj Bazar Kajraili, P.S.- Kajraili, District- Bhagalpur

.... Petitioner/s

Versus

1. The State of Bihar
2. Afsana Parveen, W/O Md. Mustaque, D/O Md. Manir, resident of village- Yahiyapur, Police Station- Sheikhpura, District- Sheikhpura

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Md. Najmul Hoda, Advocate
For the State : Mr. C. Jawahar, APP
For the Opposite Party No.2: Md. Nurul Hoda, Advocate
Mr. Shakil Ahmad Khan, Advocate

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CORAM: HONOURABLE MR. JUSTICE SANJAY PRIYA

ORAL JUDGMENT

Date: 12-09-2017

1. This application under Section 482 of the Code of Criminal Procedure has been filed for quashing the order dated 29.06.2011 passed by the Chief Judicial Magistrate, Sheikhpura, in Complaint Case No.125-C of 2011 by which the learned Magistrate after holding enquiry has found *prima facie* case against the petitioners for the offence under Section(s) 498-A/34 Indian Penal Code.

2. Counsel for the petitioners has submitted that petitioner No.1-husband is ready to keep the Opposite Party No.2-wife with full dignity and care. He has further submitted that the petitioner No.1-husband has filed a matrimonial case under Section 281 of the Muslim



Marriage Act in the Court of the Principal Judge, Family Court, Bhagalpur, for restitution of conjugal rights vide Matrimonial Case No.167 of 2011.

3. Counsel for the petitioners has further submitted that the matter be sent to the Patna High Court Mediation & Conciliation Centre for amicable settlement.

4. Counsel for the Opposite Party No.2-wife has submitted that on the one hand petitioner No.1 is submitting that he is ready to keep the wife, but on the other hand, he has filed a case against the wife and her family members vide Complaint Case No.520 of 2011 in which learned Magistrate has found *prima facie case* against the Opposite Party No.2 for the offence under Section(s) 379 Indian Penal Code.

5. The Complainant-Opposite Party No.2 in her statement on Solemn Affirmation has fully supported the case.

6. Lower Court Records have been received. From perusal of the Solemn Affirmation of the Complainant, statement of three witnesses recorded during enquiry, this Court finds that all the witnesses have supported the case and have levelled specific allegation against these petitioners.

7. Therefore, this Court does not find any illegality in the impugned order dated 29.06.2011 passed by the Chief Judicial Magistrate, Sheikhpura, in Complaint Case No.125-C of 2011 by which



the learned Magistrate after holding enquiry has found *prima facie* case against the petitioners for the offence under Section(s) 498-A/34 Indian Penal Code.

8. This application is, accordingly, dismissed.
9. The Court below will proceed with the trial in accordance with law.

(Sanjay Priya, J)

J.Alam/-

AFR/NAFR	NAFR
CAV DATE	N/A
Uploading Date	22-09-2017
Transmission Date	22-09-2017

