

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.43030 of 2014

Arising Out of PS.Case No. -2189 Year- 2012 Thana -COMPLAINT CASE District- ARRARIA

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Md. Shamim, Son of Md. Salim Resident of Mohalla- Gulab Bag, Rani Bari, Police Station- Purnea Sadar, District- Purnea

.... Petitioner/s

Versus

1. The State of Bihar
2. Bibi Shabnam Wife of Md. Shamim d/o Resident of village- Gachhi Tola Ward No.-15, Police Station- Araria, District- Araria

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr.

For the Opposite Party/s : Mr.

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CORAM: HONOURABLE MR. JUSTICE ARUN KUMAR

ORAL JUDGMENT

Date: 01-09-2017

Heard learned counsel for the petitioner as well as learned counsel for the State but no one appears on behalf of the O.P. No. 2 despite there appearance.

2. The petitioner seeks quashing of order dated 02.08.2013 passed by the Sub Divisional Judicial Magistrate Araria in Complaint Case No. 2189 of 2012 whereby he has taken cognizance of offence under Section 498A of the Indian Penal Code.

3. The petitioner is the husband of the complainant and allegation, in brief, is that just after marriage, he started torturing her in connection with demand of dowry for which she filed a complaint case No. 416C of 1998 and on compromise, went back to matrimonial home. It is further alleged that petitioner again started torturing her so she made a complaint to Women Helpline, reconciliation was done



but the husband used to threaten her for withdrawing the case.

4. Learned counsel for the petitioner submits that she had earlier filed a complaint case No. 416 of 1998 against the petitioner under Section 498A of the Indian Penal Code though petitioner was convicted by the trial court but he was acquitted in appeal by the Sessions Court giving benefit of doubt, so again she has filed the present complaint case though she is living with her husband. Learned counsel for the appellant admits that he has not divorced her.

5. Having considered the rival submissions and on perusal of record, it is admitted position that the complainant after filing of first complaint case was not divorced by the husband and still matrimonial relationship exists between them and in earlier case filed by the complainant, petitioner was acquitted giving benefit of doubt but the present allegation relates to the year 2011. It is not the case that allegation levelled in the complaint and the material collected during enquiry do not reveal any offence, so there is no ground for interfering with the cognizance order and setting aside entire criminal proceeding. This application stands dismissed.

(Arun Kumar, J)

Sujit/-

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