

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.21964 of 2014

**Arising Out of PS.Case No. -2509 Year- 2012 Thana -WEST CHAMPARAN
COMPLAINT District- WESTCHAMPARAN(BETTIAH)**

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Fakhruddin Ali Ahmad Son of Late Sharfuddin Resident of Village-Meghwal,
Mathia, P.S.- Ram Nagar, District-West Champaran Petitioner

Versus

1. The State of Bihar
 2. Soharab Ansari Son of Late Farooque Ansari
 3. Sufia Khatoon @ Sufia Soharab, Daughter of Soharab Ansari Both are resident
of Village-Bholapur, Kharhat, P.S.-Bhairoganj, (Bagha), District-West
Champaran Opposite Parties
- =====

Appearance :

For the Petitioner : Mr. Iqbal Asif Niazi, Advocate
For the State : Mr. Amrendra Prasad, APP

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CORAM: HONOURABLE MR. JUSTICE MADHURESH PRASAD

ORAL JUDGMENT

Date: 01-11-2017

Counsel for the parties are present in the Court.

The petitioner prays for quashing of order dated 29.1.2013, passed by the Sub Divisional Judicial Magistrate, Bettiah in Complaint case no. 2509C/2012, whereby the learned court has taken cognizance of offence under sections 498A and 406 IPC and section 4 of the Dowry Prohibition Act.

Counsel for the petitioner submits that in the instant case the complaint has been lodged *mala fide*. He submits that prior to the institution of the complaint on 5.11.2012, written *Talaknama* dated 13.2.2009 (Annexure 3) has been executed between the parties on intervention of their well wishers. He further submits that Annexure 4 is order of the Darul Ifta Imarat Sharia (Bihar, Orissa & Jharkhand) Phulwarisharif, Patna regarding divorce between the parties.

I find that in paragraph 15 of the quashing application, the petitioner has placed on record details of Divorce case no. 199 of 2012, filed in the court of the Principal Judge, Family Court, West



Champaran at Bettiah on 16.6.2012 for adjudicating a decree of confirming divorce pronounced by the petitioner on 12.2.2009.

The issue of divorce remains undecided due to pendency of the said case. The factual denial advanced on behalf of the petitioner cannot be looked into by this Court exercising jurisdiction under section 482 of the Cr. P. C. I do not find it appropriate to interfere with the cognizance order dated 29.1.2013 while hearing the matter under section 482 of the Code of Criminal Procedure. The quashing application stands dismissed.

The petitioner prays for and is granted liberty to raise the issues at appropriate stage which may be considered by the court below in accordance with law without being prejudiced by dismissal of this case.

(Madhuresh Prasad, J)

Shashi.

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