

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.40982 of 2014

Arising Out of PS.Case No. -74 Year- 2014 Thana -BEUR District- PATNA

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Abhay Kumar Singh, son of Late Ram Narain Singh, resident of village- Pipra, P.S. Dumariya, District Gaya and presently residing at A.G. Colony, P.S.- Shastri Nagar, District & Town- Patna

.... Petitioner/s

Versus

1. The State of Bihar
2. Sudha Singh, W/o Abhay Kumar Singh, resident of Mohalla- A. G. Colony, (Golden Palace), P.S. Shastri Nagar, District- Patna

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Satish Kumar, Adv.

For the Opposite Party no.1 : Mr. Bharat Bhushan, APP

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CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD

ORAL JUDGMENT

Date: 04-10-2017

Heard learned counsel for the petitioner and learned APP for the State. Despite notice, the opposite party no.2 has not appeared.

Learned counsel for the petitioner submits that, in the present case, the learned Judicial Magistrate, 1st Class, Patna has passed order dated 18.06.2014 taking cognizance of offences under Sections 498A, 494, 323 and 341 of the Indian Penal Code without properly appreciating the materials available on the record. According to him, the present case has been filed on false and fictitious allegations after a period of 17 years of marriage and, therefore, the order taking cognizance is fit to be quashed.



This Court has perused the FIR and the impugned order which are available on the record. It appears from the reading of the FIR that there are allegations of cruelty against this petitioner who happens to be the husband of the victim lady. The learned Judicial Magistrate has perused the materials collected by the police in course of investigation and finding a prima facie case took cognizance for the offences as stated above. I do not find any case for interference at this stage.

The petitioner, if so advised, shall raise all such pleas which are available to him at the time of framing of charge in the court below. If such a plea is raised, the same shall definitely be considered by the court below in accordance with law on the basis of the materials available on the record.

The application is disposed of with the aforesaid observations.

(Rajeev Ranjan Prasad, J)

Arvind/-

AFR/NAFR	
CAV DATE	
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