

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.54165 of 2013

Arising Out of PS.Case No. -798 Year- 2011 Thana -COMPLAINT CASE District- ARRARIA

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Savana Parvin, w/o Quyam Ansari, resident of Sogh Manzil, New Millat Colony,
P.S- Phulwarisharif, town and District- Patna.

.... Petitioner/s

Versus

1. The State of Bihar
2. Mohammad Ekramul Haque, s/o late Hazi Mohammad Ibrahim, resident of Begmara, P.S- Jokihat, District- Araria.

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Sanjeet Kumar, Advocate.

For the Opposite Party/s : Ms. Pushpa Sinha-II, A.P.P.

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CORAM: HONOURABLE MR. JUSTICE SANJAY PRIYA

ORAL JUDGMENT

Date: 17-07-2017

1. The petitioner has challenged the order dated 24.12.2012 passed by the learned Judicial Magistrate, 1st Class, Araria, in Complaint Case No. 798(C) of 2011 by which he has after holding enquiry found *prima facie* case against the petitioner and other accused persons for the offences under Sections 385, 420, 504, 506 and 120(B) of the Indian Penal Code.

2. It is alleged in the complaint petition that the petitioner who at the relevant time was CDPO along with other accused persons made demand of Rs.2,00,000/- for appointment of wife of complainant as *Angan Bari Sevika* after canceling the appointment of Bibi Humera khatoon who has already been appointed



on 7.5.2007.

3. Heard learned counsel for the petitioner and the State.

4. Notice has been issued to the opposite party No. 2 but despite valid service of notice, she has not appeared before this Court.

5. From the impugned order it appears that during enquiry, complainant in the Solemn Affirmation and the four other witnesses in their statements have supported the allegation against the petitioner and other accused persons. The court below has on the basis of Solemn Affirmation of complainant and statement of four other witnesses, found prima facie case against the petitioner and other accused persons for the offence under Sections 385, 420, 504, 506 and 120B of the Indian Penal code.

6. The learned Magistrate is only required to see prima facie case at the time of holding enquiry. The court below is not required to see the defence of the accused persons at the time of enquiry.

7. Therefore, this Court does not find any illegality in the impugned order passed by the learned Magistrate by which he has found prima facie case against the petitioner and other accused persons.



8. This Cr. Misc. application is accordingly dismissed.

9. The petitioner is given liberty to raise all the points as raised in this Criminal Miscellaneous application before the court below at the time of framing of charge which shall be disposed off by the court below in accordance with law without being prejudiced by this order.

(Sanjay Priya, J)

S.Ali/-

AFR/NAFR	NAFR
CAV DATE	N.A.
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