

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.35393 of 2013

Arising Out of PS.Case No. -31 Year- 2012 Thana -MAHILA P.S. District- PURNIA

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Subodh Kumar Yadav son of Late Laxmi Narayan Yadav, resident of village- Bath Naha, P.S.- Janki Nagar, District- Purnea.

.... Petitioner/s

Versus

1. The State of Bihar
2. Neeta Kumari daughter of Sri Nageshwar Prasad Yadav, resident of village- Baijnathpur, P.S.- Sour Bazar, District- Saharsa.

.... Opposite Party/s

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Appearance :

For the Petitioner/s	:	Mr. Mukesh Kumar Jha, Advocate
	:	Mr. Bhola Prasad, Advocate
For the Informant	:	Mr. Bijendra Kumar Singh, Advocate
For the State	:	Mr. Ajay Kumar Jha, APP

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CORAM: HONOURABLE MR. JUSTICE ASHWANI KUMAR SINGH
ORAL JUDGMENT
Date: 04-01-2018

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

2. This application under Section 482 of the Code of Criminal Procedure (for short 'the Cr.P.C.') has been filed for quashing the order dated 01.12.2012 passed by the learned Chief Judicial Magistrate, Purnea in Mahila P.S. Case No.31 of 2012 by which the petitioner has been summoned to face trial for the offences punishable under Sections 341, 323, 506, 494 and 498A read with Section 34 of the Indian Penal Code.

3. The cognizance has been taken on the basis of a police



report submitted under Section 173(2) of the Cr.P.C. in Mahila P.S. Case No.31 of 2012 dated 16.07.2012 registered under Sections 341, 323, 506, 494 and 498A read with Section 34 of the Indian Penal Code.

4. From perusal of the FIR it would be manifest that the informant has alleged that since the date of marriage itself, the petitioner, being her husband, subjected her to cruelty in various ways. He also married another lady, namely, Priyanka Roy without obtaining decree of divorce and after marrying he kicked her out of matrimonial home.

5. The police investigated the case and found allegations made in the FIR to be true. On receipt of the charge-sheet submitted by the police, the learned Magistrate after looking into the FIR and the statement of the witnesses recorded under Section 161(3) of the Cr.P.C. and the police report submitted under Section 173(2) of the Cr.P.C. took cognizance of the offence and summoned the petitioner.

6. Learned counsel for the petitioner has submitted that the allegations made in the FIR are false. He submitted that the police also failed to conduct impartial investigation and in mechanical manner charge-sheet has been submitted against the petitioner pursuant to which the learned Magistrate without application of judicial mind took cognizance of the offence and summoned the



petitioner.

7. Having seen the materials on record, I see no force in the submissions made by the learned counsel for the petitioner. The order passed by the learned Magistrate does not suffer from any illegality or irregularity. The innocence or guilt of the petitioner cannot be recorded by the court at this stage merely on the basis of oral submissions of the parties. It can only be recorded after the evidences are laid before the court.

8. I see no merit in this application. It is dismissed, accordingly.

(Ashwani Kumar Singh, J)

Md.S./-

AFR/NAFR	NAFR
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