

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.25670 of 2017

Arising Out of PS.Case No. -717 Year- 2014 Thana -SHASTRINAGAR District- PATNA

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Shashi Bhushan Ranjan, son of Shiv Bachhan Prasad, resident of village Kath Khauliya, P.S. - Nasriganj, District- Rohtas.

.... Petitioner/s

Versus

1. The State of Bihar.
2. Rinki Devi wife of Shashi Bhushan Ranjan, resident of Salimpur Ahra, Gali No.3, in the House of Ashok Singh, P.S.- Gandhi Maidan, District- Patna.

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Ashok Kumar Mishra, Advocate
For the Informant : Mr. Devi Das Srivastava, Advocate
For the State : Mr. Sanjay Kumar, APP

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CORAM: HONOURABLE MR. JUSTICE ASHWANI KUMAR SINGH

ORAL JUDGMENT

Date: 21-02-2018

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

2. This application under Section 482 of the Code of Criminal Procedure has been filed by the petitioner for quashing of the order dated 07.09.2016 passed by the learned Judicial Magistrate, 1st Class, Patna in Shastrinagar P.S. Case No.717 of 2014 by which finding a prima facie case to be made out against the petitioner under Section 498A of the Indian Penal Code, she has summoned the petitioner to face trial.

3. A short and pointed argument has been made by the learned counsel for the petitioner that there is total lack of application



of mind by the learned Judicial Magistrate in passing the impugned order, which would be manifest from a mere look at the order that the same has been drafted in Hindi by some one else and the learned Magistrate has simply incorporated the word 'cognizance' in the blank space left in the pre-prepared and pre-drafted order.

4. Learned counsel for the State and learned counsel for the informant admitted that the order has been drafted in Hindi and the word 'cognizance' in English has been filled up in the space left open in the pre-prepared and pre-drafted order in Hindi.

5. It is a very serious matter. The order passed speaks a volume about the manner in which the Presiding Officer has conducted the case. It is a well settled position in law that summoning in a criminal case is a serious matter. It affects the important right of liberty of the person summoned. Such an order has to be passed strictly in accordance with law only after proper application of judicial mind and not in any other way specially by acting mechanically and filling the blank in a pre-prepared and pre-drafted order and that too drafted by some one else.

6. Regard being had to the discussions made, hereinabove, the impugned order dated 07.09.2016 passed by the learned Judicial Magistrate, 1st Class, Patna in Shastrinagar P.S. Case No.717 of 2014 is set aside.



7. The matter is remanded back to the learned Magistrate concerned, who shall be required to take into consideration the materials available on record in the light of the observations made, hereinabove, before passing the order.

8. The application stands allowed to the extent indicated hereinabove.

(Ashwani Kumar Singh, J)

Md.S./-

AFR/NAFR	NAFR
CAV DATE	N.A.
Uploading Date	27.02.2018
Transmission Date	27.02.2018

