

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.23942 of 2018

Arising Out of PS.Case No. -1633 Year- 2016 Thana -PATNA COMPLAINT CASE District-
PATNA

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Kundan Kumar, Son of Sri Krishna Murari Sharma, Resident of Village-
Kashwan, Police Station-Paras Bigha in the District of Jehanabad.

.... Petitioner/s

Versus

1. The State of Bihar
2. Priyanka Kumari, W/o Kundan Kumar, D/o Harish Kumar, Presently
residing at Mohalla-Beur, Police Station-Beur, District-Patna.

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Nivedita Nirvikar

For the Opposite Party/s : Mr. Sir Pawan Kumar Chaurasiya

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**CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN
PRASAD**

ORAL ORDER

2 20-11-2018 This application has been preferred for quashing of
the order dated 29.11.2016 by which the learned Sub-Divisional
Magistrate, Patna has taken cognizance under Section 498A of the
Indian Penal Code and under Section 4 of the Dowry Prohibition
Act and while refusing to issue summons to other accused persons
found sufficient materials to proceed against the present petitioner.
The petitioner happens to be the husband of the O.P. No. 2. There
are allegations of demand of dowry and certain acts of cruelty and
torture against him. The statement on oath of the complainant
says that this petitioner had allegedly indulged in giving her some
beatings and assault.



Learned counsel for the petitioner, however, has drawn the attention of this Court towards the fact that the admitted case of the complainant is that she had stayed for only six days at her Sasural after her marriage and further it is also apparent from the record that since the month of March, 2015, few weeks after the marriage was solemnized on 07.03.2015, she is continuously living in her parents house and the present complaint case came to be filed after about one and half year when she received the notice of the divorce case filed by the present petitioner.

Learned counsel for the State, however, submits that even if there is some delay in filing of the complaint petition according to the petitioner, that would not take away the allegations of demand of dowry and torture levelled against the petitioner and that alone cannot be a ground to quash the present case.

In the opinion of this Court, the learned Sub-Divisional Magistrate, Patna has not committed any error in passing the impugned order and issuance of summons to the petitioner. This Court would not be willing to accept the case of the petitioner on the grounds raised by him at this stage in order to interfere with the impugned order. It is a complaint case and the petitioner will have an opportunity to do a short cross-examination of the complainant witnesses who will be produced at the stage of



evidence before charge.

Without going into the contentions of the parties, finding that there is a prima-facie case and no illegality has been committed in the passing of the impugned order, at this stage, this Court would not entertain the present application. Liberty is, however, granted to the petitioner to take all such pleas which are available to him at the time of framing of charge. If such pleas are taken by the petitioner at that stage, the learned Sub-Divisional Magistrate or the Court concerned shall decided the same on its merit keeping in mind the materials which will be collected in course of evidence before charge and the rejection of the application of the petitioner at this stage by this Court would not cause any prejudice to the petitioner.

The application is disposed off, accordingly.

(Rajeev Ranjan Prasad, J)

R.R.Ojha/-

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