

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.24737 of 2017

Arising Out of PS. Case No.-50 Year-2010 Thana- BIHARSHARIF District- Nalanda

Ramakant Roy, Son of Ramji Prasad, Resident of Mohalla- Garhpur,
Biharsharif, Nalanda, P.S.- Bihar, District- Nalanda at Biharsharif.

... .. Petitioner

Versus

1. The State of Bihar.
2. Bhagwan Prasad, Son of Late Tetar Singh, resident of Village- Talabpar, PO+ PS- Sohsarai, District- Nalanda at Biharsharif.

... .. Opposite Parties

Appearance :

For the Petitioner/s	:	Mr. Birendra Kumar Sinha, Sr. Adv. Mr. Rajnandan Kumar, Adv.
For the Opposite Party/s	:	Mr. A.P.P.

CORAM: HONOURABLE MR. JUSTICE RAKESH KUMAR
ORAL ORDER

4 14-03-2018 Heard Sri Birendra Kumar Sinha, learned Senior Counsel, assisted by Sri Rajnandan Kumar, learned counsel for the petitioner and learned Addl. Public Prosecutor.

The sole petitioner, invoking inherent jurisdiction of this Court under Section 482 of the Code of Criminal Procedure, has prayed for quashing of an order dated 21.03.2017 passed in G.R.Case No.632 of 2010 arising out of Bihar P.S. Case No.50 of 2010, whereby the learned Chief Judicial Magistrate, Nalanda has taken cognizance of offence under Sections 498A, 304B of the Indian Penal Code and Sections 3 and 4 of the Dowry Prohibition Act and proceeded against the petitioner.

The petitioner had earlier also approached this Court



against the order of cognizance vide Cr.Misc.No.23298 of 2013. A plea was taken earlier that during investigation, the accusation was not found true against the petitioner and his name was not mentioned in Column no.11 of the chargesheet and subsequently, he was exonerated by the police, however the learned Magistrate, differing with the police report, had passed order of cognizance. A plea was taken that the order of cognizance , differing with the police report, was a non-speaking . Accordingly, this Court, considering the fact that in the case, after submission of final report, the learned Magistrate had passed order of cognizance without indicating any reason, this Court interfered earlier with the order of cognizance and quashed the order dated 28.02.2013 passed by the learned Magistrate and remitted back the matter with observation that if the learned Magistrate on the basis of materials available on record proposes to proceed against the petitioner, then in that event he will assign succinctly reason. After the case being remitted back, the learned Magistrate by the impugned order has proceeded against the petitioner differing with the police report. On perusal of the order impugned , it is evident that the learned Chief Judicial Magistrate has applied its mind and by way of referring to number of paragraphs of the case diary he has come



to the conclusion that prima facie case against the petitioner was made out.

On going through the impugned order and considering the facts and circumstances, I do not find any apparent error in the order of cognizance and, as such, there is no reason to interfere with the impugned order.

The petition stands dismissed.

Considering the fact that the case pertains to the year,2010, while dismissing the present petition, it is desirable to observe that the learned court below may take appropriate steps , so that after completion of all formalities , the case may proceed without any further delay.

(Rakesh Kumar, J)

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