

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.3334 of 2016

Arising Out of PS.Case No. -275 Year- 2013 Thana -MUZFFARPUR COMPLAINT CASE District-
MUZAFFARPUR

- =====
1. Madan Mohan Giri, son of late Baidhyanath Giri, resident of village - Sonbal Uttarpatti, P.S. - Paharhpur, District - East Champaran. At present Assistant Sub - Inspector East Railway, P.S. - Railway Muzaffarpur.

.... Petitioner/s

Versus

1. The State of Bihar,
2. Chanda Devi, wife of Mohan Giri, resident of village Ayachi Gram Road No. 1, Bairiya, P.S. - Ahiyapur, District - Muzaffarpur.

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Bimlesh Kumar Pandey, Advocate

For the Opposite Party/s: Mr. APP

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CORAM: HONOURABLE MR. JUSTICE SANJAY PRIYA

ORAL JUDGMENT

Date: 14-09-2018

This application under Section 482 of the Code of Criminal Procedure has been filed for quashing the order dated 26.07.2013 passed by the Judicial Magistrate, 1st class, Muzaffarpur, in Complaint Case No.275 of 2013 (Tr.No.3427 of 2015) by which the learned Magistrate after holding enquiry has found *prima facie* case against the petitioners for the offence under Section(s) 498-A Indian Penal Code.

Notice was issued to the Opposite Party No.2, but none has appeared on behalf of the Opposite Party No.2.

Petitioner is husband of the Complainant-Opposite Party No.2. There is allegation that marriage of the Complainant



was solemnized about 30 years back. Two male and two female children were born out of wedlock. Two children, namely, Ajay Kumar Giri and Vibha Devi are married. It is further alleged that two years back petitioner has performed marriage with one Kanchan Devi, wife of late Raj Kumar Paswan of Sultanpur, P.S.-Danapur, and is living with her as her husband. On protest being made by the Complainant, he used to commit torture and stopped maintaining her and her two unmarried children.

Counsel for the petitioner submits that he is making payment of amount of maintenance to the Complainant and her two children. He is ready to keep the wife-Opposite Party No.2.

The Court below after looking into Solemn Affirmation of the Complainant, allegation in the Complaint Petition and statement of witnesses recorded during enquiry has found *prima facie* case against the petitioner for the offence under Section(s) 498-A Indian Penal Code.

This Court does not find any illegality in the impugned order passed by the Court below.

This application is, accordingly, **dismissed**.

The petitioner is given liberty to raise all the points, as raised in the present application, at the time of framing of Charge, which shall be considered and disposed off by the learned Court



below in accordance with law without being prejudiced by this order.

In the event the petitioner offers in the Court below to keep the Complainant-Opposite Party No.2 with full dignity, the Court below will consider the same in accordance with law without being prejudiced by this order.

(Sanjay Priya, J)

J.Alam/-

AFR/NAFR	NAFR
CAV DATE	N/A
Uploading Date	18-09-2018
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