

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.22311 of 2016

Arising Out of PS. Case No.-123 Year-2012 Thana- RASULPUR District- Saran

Arti Singh daughter of Ram Bahal Singh wife of Chandra Bhushan Singh, R/o village Nayanpur, P.S. Pachrukhi, Dist. Siwan, at present R/o S.H.O. Gorakhpur, S.P. Office (U.P.). at village Dayalpur, P.S. Kaptanganj, Janpad Vasti (U.P.)

... .. Petitioner/s

Versus

1.State Of Bihar
2.Om Prakash Singh son of late Shiv Bachan Singh R/ of village Benaut P.S. Rasulpur, Dist. Saran

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Bijay Prakash Singh
For the Opposite Party/s : Mr. S.M.Rahman(App)

CORAM: HONOURABLE MR. JUSTICE SANJAY PRIYA
ORAL JUDGMENT

Date : 19-09-2018

This petition under Section 482 Cr. P.C. has been filed for quashing the order dated 30.5.2014 passed by J.M. 1st Class, Chapra in U.T. no. 219 of 2015, G.R. No. 4200 of 2012, Reg. No. 33126 of 2014, arising out of Rasulpur P.S. case no. 123 of 2012 by which learned Magistrate has taken cognizance for the offence under Sections 120B, 302 and 201 of the IPC against the petitioner and one another.

As per the written report the petitioner is said to be the second wife of husband of the deceased. It is alleged that he was living as illegal wife of husband of the deceased since the year 2004 for which the deceased has filed a complaint case



under Section 498A, 494, 323, 504 and 506 of the IPC. She has also made complaint before the Inspector General of Police Gorakhpur against the behavior of her husband for up-keeping this petitioner as illegal wife. The I.G., Gorakhpur had inquired the matter through Additional Superintendent of police, Devariya who, after enquiry, had submitted his report, wherein, he had recommended for action against the petitioner for breach of the conduct Rule of the Government servant. It is further alleged that on 26.5.2012 informant received information that his sister died and when he went to the *Sasural* of his sister the accused persons became angry and gave threat to the informant.

Learned counsel for the petitioner has submitted that police after investigation did not submit charge sheet against this petitioner. But, the Court below has taken cognizance against this petitioner also after differing with the final form submitted by the police. The Court below has mentioned in the impugned order that on perusal of the case diary, final form submitted by the I.O. and also the allegation in the complaint petition on the basis of which FIR was registered *prima facie* case is made out against this petitioner along with husband of the deceased, namely, Chandra Bhushan Singh for the offence



under Section 120B, 302 and 201 of the IPC.

The learned Magistrate is only required to see *prima facie* case at the time of taking cognizance. Therefore, this Court is not inclined to interfere with the impugned order dated 30.5.2014.

This Cr. Misc petition, is, accordingly dismissed.

The court below will proceed with the case in accordance with law.

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.

(Sanjay Priya, J)

shyambihari/-

AFR/NAFR	NAFR
CAV DATE	N/A
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