

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.1732 of 2016

Arising Out of PS.Case No. -330 Year- 2015 Thana -SHEKHPURA COMPLAINT CASE District-
SEKHPURA

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Md. Enam, Son of Late Malick Rasid, Resident of Village- Asthawan, P.S.-
Karande District- Sheikhpora.

.... Petitioner/s

Versus

1. The State of Bihar.
2. Rubina Naz, Daughter of Md. Ehsanul Haque, resident of Village Arha, P.S.-
Chandradeep, District- Jamui.

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Pankaj Kumar, Advocate.

For the Opposite Party/s : Dr. Rabindra Kumar, A.P.P.

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CORAM: HONOURABLE MR. JUSTICE SANJAY PRIYA

ORAL JUDGMENT

Date: 07-09-2018

This application under Section 482 of the Code of Criminal Procedure has been filed for quashing the order dated 2.9.2015 passed by learned Additional Chief Judicial Magistrate, Sheikhpora, in Complaint Case No. 330C of 2015 by which the learned Magistrate after holding enquiry has found *prima facie* case against the petitioner and other accused person for the offences under Sections 498A, 323, 379 and 34 of the Indian Penal Code.

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

Counsel for the petitioner has submitted that no offence under Section 498A Indian Penal Code is made out against the



petitioner. Petitioner is father-in-law of the complainant.

Notice issued to opposite party No. 2 has been validly served but none appeared on her behalf today during hearing of the case.

In the complaint petition it is alleged that on the date of occurrence the complainant was waiting for bus to proceed to her village then accused persons came there and assaulted her and took away Rs.3,500/- from her bag. It is further alleged that petitioner is father-in-law. The petitioner after getting bail in Mahila P.S. Case No. 8 of 2015 has caused the aforesaid occurrence and also gave threat to the complainant.

The complainant has levelled specific allegation against co-accused Md. Faizan of taking away Rs.3,500/-.

From the impugned order it appears that the court below after holding enquiry has found *prima facie* case against the petitioner for the offence under Sections 498(A), 323 and 379/34 of the Indian Penal Code.

From the allegation in the complaint petition itself it appears that there is no allegation of any specific overt act against this petitioner.

From the nature of allegation made in the complaint petition, there is no ingredient of offence under Sections 498(A), 323



and 379/34 of the Indian Penal Code against the petitioners.

Therefore, the impugned order dated 2.9.2015 passed by learned Additional Chief Judicial Magistrate, Sheikhpura, in Complaint Case No. 330C of 2015 along with the entire Criminal Proceeding against the petitioner is hereby quashed.

This Criminal Miscellaneous application is accordingly allowed.

(Sanjay Priya, J)

S.Ali/-

AFR/NAFR	NAFR
CAV DATE	N.A.
Uploading Date	13/09/2018
Transmission Date	13/09/2018

