

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.71 of 2016

Arising Out of PS. Case No.-326 Year-2015 Thana- COMPLAINT CASE District-
Kishanganj

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Nirmal Das Son of Basudev Das@Basudev Majhi Resident of Village-
Doriya, P.s Kochadhaman, District Kishanganj.

... .. Petitioner/s

Versus

1. The State of Bihar.
2. Joshna Devi wife of Nirmal Das, Daughter of Dev Lal Das Resident of
Village- Rupodah, P.s Powakhali, District Kishanganj.

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Amal Kumar Sinha

For the Opposite Party/s : Mr. B.N.Panday(App)

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CORAM: HONOURABLE MR. JUSTICE SANJAY PRIYA

ORAL ORDER

3 13-08-2018 This petition under Section 482 Cr. P.C. has been filed

for quashing the order dated 29.7.2015 passed by learned

SDJM, Kishanganj in complaint case no. (c)326 of 2015 by

which learned Magistrate has taken cognizance against the

petitioner under Sections 323 and 498A of the IPC.

Petitioner is the husband of the complainant. There is
specific allegation in the complaint petition against this
petitioner of committing torture with the complainant and
ultimately ousting her from the house. The Court below has
after recording S.A. of the complainant and statement of two
enquiry witnesses has found *prima facie* case for the offence
under Sections 323 and 498A of the IPC. Therefore, this Court
does not find any illegality in the impugned order.



Learned counsel for the petitioner has submitted that earlier he has filed a petition before the D.M. Kishanganj on 8.1.2015 for consideration of his grievance in Janta Darbar upon which the D.M. Kishanganj has referred the matter to SHO, Powakhati Police Station who submitted a report dated 7.4.15 stating therein that there is no assault or torture.

Learned Magistrate in the complaint case has to pass the order on the basis of the allegation made in the complaint, S.A. of the complainant, and statement of witnesses recorded during enquiry. The learned Magistrate has mentioned in the impugned order that on the basis of allegation in the complaint and the statement of witnesses recorded during enquiry has found *prima facie* case against the petitioner. Therefore, this Court does not find any illegality in the impugned order dated 29.7.2015 passed by S.D.J.M., Kishanganj in complaint case no. (C) 326 of 2015.

This Cr. Misc. petition is , accordingly, dismissed.

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

(Sanjay Priya, J)

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