

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.43886 of 2014

Arising Out of PS.Case No. -1250 Year- 2012 Thana -WEST CHAMPARAN COMPLAINT
District- WESTCHAMPARAN(BETTIAH)

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1. Shyambabu Yadav Son of Yamuna Prasad Yadav Resident of Mohalla - Cristian Quarter (Nonia Toli), Bettiah, P.O. + P.S. - Bettiah (T), Distt. - West Champaran.

.... Petitioner/s

Versus

1. The State of Bihar
2. Ankita Bharti W/o - Shyambabu Yadav, D/o - Sachidanand Yadav Residing in Mohalla - Krishna Puri, Mongher, P.O + P.S. + Distt. - Mongher.
3. Pawan Kumar Son of Sachidanand Yadav Resident of Mohalla - Krishna Puri, Mongher, P.O. + P.S. + Distt. - Mongher.
4. Raj Yadav Son of Laxman Yadav, Resident of Village - Barsahi (Near Railway Station), P.S. - Sikta, Distt. - West Champaran.

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Akhileshwar Kumar Shrivastva, Advocate
For the Opposite Party/s : Mr. Tarun Pd.Mandal(App)

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CORAM: HONOURABLE MR. JUSTICE ARUN KUMAR
ORAL ORDER

5 19-02-2018 Heard learned counsel for the petitioner and learned

A.P.P. for the State.

This application has been filed by the petitioner, who happens to be complainant before the Court below, for setting aside the order dated 04.05.2013, passed by the learned Sub Divisional Judicial Magistrate, Bettiah, West Champaran in Complaint Case No.1250-c/2012 (Trial No. 1873 of 2013) by which the learned Magistrate has taken cognizance only under Section 323 of the Indian Penal Code but despite prima-facie



material, cognizance has not been taken under Sections 406 and 498 of the Indian Penal Code.

The brief fact giving rise to the complaint is that Raju Yadav, the brother-in-law of the appellant's wife stated to have eloped with his wife and she has taken away cash of Rs. 50,000/- and jewellery.

The learned counsel for the petitioner during the argument admitted that the wife of the petitioner has filed a case under Section 498 A of the Indian Penal Code against her husband after lodging of the present complaint case so taking of her personal jewellery, belonging to the wife does not constitute the offence of theft or breach of trust, so no prima-facie case against the petitioners for the offences under Sections 406 and 498 of the Indian Penal Code is made out.

Hence, the Court is not inclined to interfere with the impugned order. Accordingly, this application stands dismissed.

(Arun Kumar, J)

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