

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.63360 of 2018

Arising Out of PS. Case No.-1340 Year-2017 Thana- KATIHAR COMPLAINT CASE
District- Katihar

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Manish Kumar Duggar @ Manish Jain, S/o Late Trilok Chandra Duggar,
Resident of Mohalla- Biropur, Katihar, P.S.- Katihar, District- Katihar.

... .. Petitioner/s

Versus

1. The State of Bihar.
2. Puja Ray, D/o Bhawesh Chandra Ray, Resident of Mohalla- Krishna Nagar
Colony, Ward No. 1, Bheria Rahika, Katihar, P.S. Sahayak, District- Katihar.

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Samir Kumar
For the Opposite Party/s : Mr.

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CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

2 01-11-2018 Learned counsel for the petitioner is present. No one
appears on behalf of the State.

This application has been filed seeking quashing of the
order dated 15.11.2017 passed in C.A. No. 1340 of 2017 by which
learned Sub-Divisional Judicial Magistrate, Katihar has taken
cognizance of the offence under Sections 495 and 498(A) of the
Indian Penal Code summoning the petitioner to face trial.

Learned counsel for the petitioner submits that on a bare
reading of the statement on solemn affirmation of the complainant it
would appear that this petitioner was already married to someone and
the allegation against him is that he had got married with present
complainant and had established physical relationship with her,
therefore, it is an admitted position that the complainant is not a



legally wedded wife of the petitioner and if she is not a legally wedded wife of the petitioner then there is no question of taking cognizance under Section 498(A) of the Indian Penal Code.

On perusal of the materials available on the record, this Court finds that there are allegations against the petitioner that he had solemnized marriage with the complainant and had established physical relationship, the marriage was solemnized in a temple and then it was got registered through an affidavit and then the allegation is that the petitioner had lived with the complainant as husband and wife.

In the opinion of this Court, at this stage, no interference is called for with the order taking cognizance. At the stage of framing of charge the petitioner will have liberty to raise all such pleas which may be available to him and in case such plea is taken the court below shall consider the same without being prejudice by this order and an appropriate order shall be passed on the petition of the petitioner seeking discharge.

This application is disposed off accordingly.

(Rajeev Ranjan Prasad, J)

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