

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**CRIMINAL MISCELLANEOUS No.55979 of 2015**

Arising Out of PS. Case No.-2 Year-2015 Thana- MAHILA PS District- Gaya

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1. Krishna Prasad Yadav @ Krishna Yadav, Son of Late Kameshwar Yadav
  2. Ravi Yadav, Son of Krishna Prasad Yadav @ Krishna Yadav
  3. Rekha Devi, D/o Krishna Prasad Yadav @ Krishna Yadav
  4. Kanti Devi, Wife of Ravi Yadav, All resident of Village Nimthu, P.S. Nimchak Bathani, District Gaya.

... .. Petitioner/s

Versus

1. The State of Bihar
2. Rekha Devi, D/o of Ramanand Yadav, Wife of Rajeev Kumar @ Rajeev Ranjan, resident of Village Tetua Birar, P.S. Atri, District Gaya

... .. Opposite Party/s

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**Appearance :**

For the Petitioner/s : Mr. Durgesh Nandan, Advocate

For the Opposite Party/s : Mr. Smt. A. Jaiswal, APP

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**CORAM: HONOURABLE MR. JUSTICE BIRENDRA KUMAR**  
**ORAL JUDGMENT**

**Date : 04-09-2019**

Heard the parties.

2. By the impugned order dated 11.08.2015, the learned Judicial Magistrate, 1<sup>st</sup> Class, Gaya took cognizance in connection with Mahila P.S. Case No. 02 of 2015 and ordered issuance of summons against the accused person to face trial for offences under Sections 498A and 494 of the Indian Penal Code.

3. Learned counsel for the petitioners has drawn attention of the Court towards the charge sheet submitted in the aforesaid police case and submits that, in fact, the petitioners were not sent up for trial, rather only husband of the informant, namely,



Rajeev Ranjan @ Rajeev Kumar was sent up to face trial for offences under Sections 498A and 494 of the Indian Penal Code.

4. However, the learned court below in a mechanical manner recorded that charge sheet has been submitted against the petitioners also.

5. Since the impugned order apparently suffers from non-application of judicial mind, the same is not sustainable in law for the simple reason that it would lead to miscarriage of justice. Hence, it stands set aside and the matter is remitted back to the learned court below to pass fresh order after going through the material collected during investigation of the case, according to law, within fifteen days from the date of receipt of a copy of this order.

6. Accordingly, this application stands allowed.

**(Birendra Kumar, J)**

Kundan/-

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| AFR/NAFR          | N.A.       |
| CAV DATE          | N.A.       |
| Uploading Date    | 06.09.2019 |
| Transmission Date | 06.09.2019 |

