

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No. 45161 of 2014

Arising Out of P.S. Case No.-203 Year-2012 Thana- LAHERIASARAI District- Darbhanga

Kumar Abhishek, Son of Jitendra Kumar Choudhary, Resident of
Wheelarganj, P.S.- Laheriasarai, District- Darbhanga.

... .. Petitioner/s

Versus

1. The State of Bihar
2. Shiku Kashyap @ Sikku Kashyam D/o Dr. Mohan Chaudhary, Resident of
Mohalla- Bhattiari Sarai (Mishra Tola), District- Darbhanga, At Present Shiku
Kashyap C/o Jitendra Kumar Chaudhary, Resident of Mohalla- Wheelarganj,
P.S.- Laheriasarai, District- Darbhanga.

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. Murari Nr. Chaudhary and Mr. Pankaj Kumar Das, Advocates
For the Opposite Party/s	:	Mr. Praveen Kumar and Mr. Kumar Kaushik, Advocates
For the State	:	Mr. Jharkhandi Upadhyay, A.P.P.

**CORAM: HONOURABLE MR. JUSTICE AHSANUDDIN
AMANULLAH**

ORAL JUDGMENT

Date : 04-02-2019

Heard learned counsel for the petitioner; learned A.P.P.

for the State and learned counsel for the Opposite Party No. 2.

2. The petitioner has moved the Court under Section 482

of the Code of Criminal Procedure, 1973, for the following relief:

*“That this is an application for
quashing the Criminal Revision Order dated
6.9.14 passed in Criminal Revision No.
306/2013 by Ad-hoc Additional Sessions
Judge-4, Darbhanga as well as petitioner
challenged the cognizance order dated
17.04.2013 passed by learned Chief Judicial
Magistrate, Darbhanga in Laheriasarai P.S.
Case No. 203/12, where under learned C.J.M.
took cognizance of offence u/s 323, 341, 498A,
307, 504, 506, 419, 420/34 I.P.C.”*



3. The petitioner, who is the husband of the Opposite Party No. 2, is accused, along with four other family members of torture, assault and demand of dowry.

4. Learned counsel for the petitioner submitted that it is the Opposite Party No. 2, who is at fault and does not want to live with him. It was further submitted that the petitioner had obtained decree of divorce in Matrimonial Case No. 68 of 2011 dated 26.08.2011, against the Opposite Party No. 2. However, it was submitted that the same was set aside in Miscellaneous Case No. 3 of 2012 by order dated 18.06.2013 and challenge to the same by the petitioner in M. A. No. 477 of 2013, was also dismissed, though after filing of the present case, on 07.07.2015. Learned counsel submitted that the petitioner along with other family members have been made accused despite the Opposite Party No. 2 being at fault.

5. Learned A.P.P. for the Opposite Party No. 2, submitted that the petitioner being the husband is responsible for the general well being and upkeep of the wife. It was submitted that there is also a male child out of the wedlock and, thus, it is obvious that it was not the Opposite Party No. 2, who is responsible for not living in the matrimonial home and it also points to the fact that there was torture and demand of dowry,



forcing the Opposite Party No. 2 to move out of the house and presently she was living with her sister in Delhi along with her minor son. Learned counsel submitted that the conduct of the petitioner would show that he is trying to play with the process of the Court, inasmuch as, while she was living with him at Darbhanga, showing her address to be somewhere at Patna, notices were sent and an ex-parte decree of divorce was obtained which Opposite Party No. 2 has got reversed and which has also been upheld by the High Court.

6. Having considered the facts and circumstances of the case and submissions of learned counsel for the Parties, the Court does not find any merit in the present application.

7. From the materials on record, it is clear that sufficient material existed before the Court below to have taken cognizance and at this stage, it cannot be said that the case filed by the Opposite Party No. 2, is false or frivolous needing any interference.

8. Accordingly, the application stands dismissed.

(Ahsanuddin Amanullah, J.)

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