

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.54246 of 2013

Arising Out of PS. Case No.- Year- Thana- District- Darbhanga

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Zaved Ekwat @ Arsi S/o Late Md. Umar Resident Of Village- Jale, P.S- Jale,
District- Darbhanga.

... .. Petitioner/s

Versus

1. The State Of Bihar
2. Naushabha Praveen @ Rubi W/o Zaved Ekwat @ Arsi And D/O Mansoor
Alam Residing Of Village- Bhagwatipur, P.S- Singwara, Distt- Darbhanga.

... .. Opposite Party/s

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Appearance :

For the Petitioner/s	:	Mr. Mahendra Thakur, Advocate
For the O. P. No. 2	:	Mr. Ratnakar Jha, Advocate
For the State	:	Mr. Jharkhandi Upadhyay, A.P.P.

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CORAM: HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH
ORAL JUDGMENT

Date : 07-01-2019

Heard learned counsel for the petitioner and learned
A.P.P. for the State. Though learned counsel for the opposite party
no. 2 has appeared but upon him being called to assist, he was not
in a position to give any assistance.

2. The present application has been filed under Section
482 of the Code of Criminal Procedure, 1973 for the following
relief:

*“That this application is being filed on
behalf of the petitioner above named for
quashing the entire proceeding of
Matrimonial Return (M.R.) Case No.
07/013, including order dated 03/09/2013,
passed by the learned C.J.M, Darbhanga,*



filed by O.P. No. 2 whereby and where under the Learned C.J.M., Darbhanga, without considering the objection of the petitioner, transferred the case to the another Judicial Magistrate for disposal of the case, which is pending in the court of Sri U.K. Pandey, learned Judicial Magistrate 1st Class, Darbhanga.”

3. The sole point learned counsel for the petitioner raised was that the opposite party no. 2 has filed Matrimonial Return Case No. 07 of 2013 based on an *ex parte* order of Darul Qaza Adalat-e Shariya, Rajasthan by which marriage was declared dissolved on 15.10.2012. Learned counsel submitted that no *ex parte* order could have been passed and at best, the opposite party no. 2 could have asked for divorce which has not been done in the present case. It was further submitted that the court below has proceeded in the matter without disposing off the objection filed by the petitioner that the basis of the said case being the *ex parte* order of dissolution of marriage itself is no order in the eyes of law and further that even the petitioner has filed a suit for restitution of conjugal rights.

4. Learned A.P.P. submitted that right or wrong, an order having been passed by the Darul Qaza Adalat-e Shariya, Rajasthan dissolving the marriage, unless the same is interfered with, there is



no infirmity or illegality in the court below proceeding in Matrimonial Return Case No. 07 of 2013 which has been filed by the opposite party no. 2 under Section 3 of the Muslim Women (Protection of Rights on Divorce) Act, 1986 seeking return of ornaments and maintenance for the period of *Iddat*.

5. 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. The contention of learned A.P.P. is correct that unless the order dissolving the marriage of the opposite party no. 2 with the petitioner is interfered with, the court below is only required to proceed further and take matters to their logical conclusion which it has done.

6. Accordingly, the application stands dismissed.

(Ahsanuddin Amanullah, J)

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