

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No 9840 of 2015**

Arising Out of PS. Case No.-1215 Year-2012 Thana- MADHEPURA COMPALINT CASE
District- Madhepura

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Singeshwar Roy @ Bilayati Roy, son of Jatu Roy resident of Village - Uda Kishunganj, Tola - Dohatwari Panchawati, P.S. - Uda Kishunganj, District Madhepura.

... .. Petitioner/s

Versus

1. State Of Bihar
2. Usha Devi @ Kajal Devi D/o Bilash Yadav resident of Village and P.S. Uda Kishunganj, District Madhepura.

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr.Praveen Kumar Agrawal
For the Opposite Party/s : Mr.Rajendra Prasad Nat App

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CORAM: HONOURABLE MR JUSTICE MADHURESH PRASAD

ORAL JUDGMENT

Date : 17-12-2019

Heard learned counsel for the petitioner and the learned APP for the State.

2 Petitioner's counsel submits that the case has been filed for quashing the order dated 25.04.2013 passed by the Sub Divisional Judicial Magistrate (for brevity, the Magistrate), Madhepura in Complaint Case No 1215 of 2012. The Magistrate, by the said order, has taken cognizance for the offences under Sections 498A and 494 of Indian Penal Code and process has been issued against the petitioner. The allegations made in the complaint by the wife of the petitioner is that she was married to



the petitioner 5 to 7 years prior to lodging of the complaint. It is alleged that at the time of marriage, money and ornaments were given. It is also alleged that after she came to her matrimonial home, the in-laws started demanding additional dowry and that two children, born out of the wedlock, died because they were not given due care by the petitioner (husband of complainant). It is further alleged that the petitioner has solemnized second marriage with accused Kalpana Devi.

3 Learned counsel for the petitioner submits that the petitioner has not solemnized second marriage and that the allegations are only out of suspicion. It is further submitted that the petitioner is willing to keep the complainant. However, she has refused to stay with him. The submission is that he has falsely been implicated.

4 The submissions advanced by the petitioner's counsel are at best defence and factual denial of the allegations made in the complaint petition. The order under challenge is the order taking cognizance. It is trite law that at this stage, the Magistrate is only required to see whether there is sufficient material/ingredients in the complaint or first information report so as to arrive at a subjective satisfaction regarding there being a prima facie case. The specific allegations made in the complaint petition, therefore,



fully justify the taking of cognizance by the Magistrate under the impugned order.

5 The submissions advanced by the petitioner’s counsel are issues which the petitioner, without having any prejudice to the observations made in this order, would be entitled to raise at the appropriate stage which the Court shall be obliged to consider in accordance with law.

6 This application is dismissed.

(Madhuresh Prasad, J)

M.E.H./-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	
Transmission Date	

