

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.13388 of 2015**

Arising Out of PS. Case No.-695 Year-2013 Thana- PATNA COMPLAINT CASE District-
Patna

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Shankar Sao son of Govind Sao, resident of village and P.O. and P.S. Sarmera, District Nalanda, at present residing at Chandmari Road, Gali No. 7 in front of Raghunath Path, House of Shri Bindu Singh, P.S. Kankarbagh, Dist. Patna.

... .. Petitioner/s

Versus

1. The State Of Bihar
2. Seema Devi @ Seema Verma wife of Shankar Sao D/O Late Suresh Sao, resident of village- Dalishamanchak, P.S. Barh, Dist. Patna.

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr.Mukesh Kumar
For the Opposite Party/s : Mr.B.N. Pandey App

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**CORAM: HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH
ORAL JUDGMENT**

Date : 16-05-2019

The present petition has been filed for quashing the order dated 13.02.2014 passed by the learned Sub-Divisional Judicial Magistrate, Barh by which the learned court has been pleased to take cognizance against the petitioner under Sections 498(A) and 494 of the Indian Penal Code in Complaint Case No. 695(C) of 2013.

2. The brief facts of the case are that a complaint Case No. 695(C) of 2013 was filed by the Opposite Party No.2 herein, namely, Seema Devi i.e. the wife of the petitioner herein, inter alia alleging therein that the marriage of the complainant and the petitioner herein had taken place as per Hindi rites and rituals in the year 2007 and consequently in the year 2009 and



2011, two children had been born out of the said wedlock. In the said complaint it has also been stated that at the time of marriage, sufficient gift and cash amount were given by the father of the complainant, however, subsequently, the petitioner and his family members started demanding dowry from the complainant and her family members and upon non-fulfillment of the said demand, the petitioner and his family members had beaten the complainant and ousted her from the house, whereafter the complainant had come back to her parents home. It has further been alleged by the complainant that the petitioner has solemnized marriage with another lady, namely, Rani Devi, in the meantime, and has given shelter to her in his house.

3. It appears that the learned court of S.D.J.M., Barh had examined the complainant as well as witnesses on oath in the aforesaid complaint case No. 695(C) of 2013 and thereafter, by the impugned order dated 13.02.2014 had found ample evidence, upon perusal of the materials on record as also the evidence on record to proceed further in the matter, hence had taken cognizance against the petitioner and one Rani Devi for the offence punishable under Sections 498(A) and 494 of the Indian Penal Code.

4. The learned counsel for the petitioner has argued



that the conduct of the Opposite Party No.2 ought to have been taken into account by the learned Magistrate before passing the impugned order dated 13.02.2014 inasmuch as the Opposite Party No.2 had eloped alongwith her children with one Suraj Verma to Mumbai on 13.08.2012 and they were also having illicit relationship amongst them, whereafter Kankarbagh Police Station Case No. 449 of 2012 dated 06.10.2012 was registered under Sections 366, 498/506 of the Indian Penal Code and after a lapse of about 8 months, the Opposite Party No.2 had appeared before the court of learned Judicial Magistrate-1st Class, Patna on 30.03.2013 wherein her statement under Section 164 Cr. P. C. was recorded and she had stated that she had gone to Mumbai with Suraj Verma voluntarily and since she and the said Suraj Verma are leading their life as husband and wife at Mumbai comfortably, she did not want to stay with the petitioner. In such view of the matter, it is submitted that the complaint of the Opposite Party No.2 is frivolous and ought to have been dismissed.

5. I have heard the learned counsel for the petitioner and perused the materials on record and I find that extraneous materials, not forming part of a particular case record cannot be considered to form an opinion regarding a particular case in



hand inasmuch as it is a settled law that the complaint petition/
FIR and the evidence collected during the course of enquiry/
investigation as also materials on record of that case is only
required to be looked into at the time of taking cognizance by
the Magistrate. A bare reading of the complaint petition
definitely makes out a case against the petitioner and the other
co-accused Rani Devi under Sections 498A and 494 of the
Indian Penal Code, hence at this juncture, the impugned order
dated 13.02.2014 taking cognizance against the petitioner and
co-accused Rami Devi, passed by the court of learned S.D.J.M.,
Barh in Complaint Case No. 695(C) of 2013 requires no
interference, hence the present petition stands dismissed.

(Mohit Kumar Shah, J)

Tiwary/-

AFR/NAFR	NAFR
CAV DATE	N/A
Uploading Date	31.08.2019
Transmission Date	31.08.2019

