

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.80016 of 2019

Arising Out of PS. Case No.-14 Year-2013 Thana- MAHILA P.S. District- Siwan

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1. FIROZA BANO Wife of Master Nesar @ Nesar Ahmad Resident of Mohalla- Sheikh Mohalla, Post, P.S.- Nagar, District- Siwan.
 2. Azhar Jamil Son of Master Nesar @ Nesar Ahmad Resident of Mohalla- Sheikh Mohalla, Post, P.S.- Nagar, District- Siwan.

... .. Petitioner/s

Versus

1. THE STATE OF BIHAR
2. Neha Parveen Wife of Sayed Naaz Marfi Resident of Mohalla- Sheikh Mohalla- P.S.- Nagar, District- Siwan.

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Madhu Prasun, Adv.
For the Opposite Party/s : Mr.Navin Kumar Pandey,APP

CORAM: HONOURABLE MR. JUSTICE MADHURESH PRASAD
ORAL ORDER

2 09-12-2019 Heard learned counsel for the petitioners and learned counsel for the State.

The instant petition, under Section 482 of the Code of Criminal Procedure, 1973 (for short ‘the Code’), has been filed for quashing the order dated 12.08.2014, passed by learned Chief Judicial Magistrate, Siwan, in Siwan Mahila P.S. Case No. 14 of 2013 (Tr. No. 3127 of 2017) for the offences under Sections 341,323,506 and 498A of the I.P.C. and Section 3/4 of the Dowry Prohibition Act, by which, the learned Magistrate has taken cognizance against the petitioner and other accused persons for the offence under Sections 498A of the Indian Penal



Code.

It is submitted by the petitioners' counsel that the allegations made in the F.I.R. are highly improbable and based on extraneous consideration as the informant is still residing with the husband. The circumstances are such that there can be no occasion for any demand of dowry by the petitioner. The prosecution is intended with *mala fide* to extort large share in the joint family property.

The submissions made by the petitioners' counsel are issues of fact and defence of the petitioner which can appropriately be considered by the Court below in accordance with law at an appropriate stage. The order taking cognizance is based on existence of the ingredients of the offences under Section 498A of the IPC, in respect of which, there is specific allegations in the FIR. The *prima facie* conclusion of the Magistrate by taking cognizance of the offences, in the facts and circumstances of the case, does not require any interference by this Court exercising jurisdiction under Section 482 of the Code of Criminal Procedure.

The application stands dismissed.

However, the petitioners would be at liberty to raise all the issues at appropriate stage for consideration in accordance



with law.

(Madhuresh Prasad, J)

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