

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.13821 of 2017

Arising Out of PS. Case No.-1279 Year-2015 Thana- NALANDA COMPLAINT CASE
District- Nalanda

=====

Md. Shamsil Arfeen Son of Md. Shahjahan, resident of Mohalla- Imadpur, Town- Biharsharif, P.S.- Bihar, District- Nalanda, at present resident of Block G-1, Quarter No.305, Third Floor, N.G. Sun City, Phase-1, Kandibali East Thakur Village, P.S.- Samta Nagar, Mumbai- 400101, Maharashtra.

... .. Petitioner/s

Versus

1. State of Bihar
2. Nagma Praveen @ Rubi divorced wife of Md. Shamsil Arfeen, Daughter of Md. Shahabuddin, resident of Mohalla- Imadpur, Town- Biharsharif, P.S.- Bihar, District- Nalanda, at present resident of Mohalla- Banaula, P.S.- Bihar, District- Nalanda.

... .. Opposite Party/s

=====

Appearance :

For the Petitioner/s : Mr. Ved Prakash Srivastva, Advocate
For the Opposite Party/s : Mr. Jai Narain Thakur, APP

=====

CORAM: HONOURABLE MR. JUSTICE PURNENDU SINGH
ORAL ORDER

2 20-09-2023 Heard Mr. Ved Prakash Srivastava, learned counsel

appearing on behalf of the petitioner and Mr. Jai Narain Thakur,

learned APP appearing on behalf of State.

2. Learned counsel appearing on behalf of petitioner submits that allegation is under Section 498A and instruction received is that the complainant has performed re-marriage and subsequent to that petitioner has also performed re-marriage during the pendency of the present application under Section 482 Cr.P.C. Therefore, the allegation has been made purely out of personal grudge.

3. Considering the aforesaid fact, the petitioner may



file an affidavit before the trial Court along with evidence in support of the statement made on the basis of instruction that opposite party no. 2 has performed re-marriage and subsequent to that the petitioner has also re-married and leading a happy marriage life by performing second marriage. In case, the information is correct, the trial Court is directed to pass an appropriate order in accordance with law and till then no coercive steps shall be taken against the petitioner.

4. The Hon'ble Apex Court in the case of ***Madhavrao Jiwajirao Scindia v. Sambhajirao Chandrojirao Angre***, reported in (1988) 1 SCC 692, has made following observation in paragraph no. 7, which is reproduced hereinbelow :

“7. The legal position is well settled that when a prosecution at the initial stage is asked to be quashed, the test to be applied by the court is as to whether the uncontroverted allegations as made prima facie establish the offence. It is also for the court to take into consideration any special features which appear in a particular case to consider whether it is expedient and in the interest of justice to permit a prosecution to continue. This is so on the basis that the court cannot be utilised for any oblique purpose and where in the opinion of the court chances of an ultimate conviction are bleak and, therefore, no useful purpose is likely to be served by allowing a criminal prosecution to continue, the court may while taking into consideration the special facts of



a case also quash the proceeding even though it may be at a preliminary stage.”

5. The petitioner is directed to appear before the Court below within a period of three weeks from the date of passing of this order. In case of failure, the interim protection granted to the petitioner will lose its force and the Court below is directed to proceed in accordance with law.

6. Accordingly, the present quashing application stands disposed of.

(Purnendu Singh, J)

minu/-

U		T	
---	--	---	--

