

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.24285 of 2015**

Arising Out of PS. Case No.-1236 Year-2012 Thana- ROHTAS COMPLAINT CASE
District- Rohtas

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1. Rakesh Kumar Vishwakarma and Ors. son of Ramashankar Vishwakarma
 2. Kamla Devi wife of Ramashankar Vishwakarma
 3. Ramashankar Vishwakarma son of Late Sita Sharma All resident of village- Dharampur, P.S.- Kranda, District- Gajipur, U.P

... .. Petitioner/s

Versus

1. State Of Bihar and Anr
2. Shiv Shankar Sharma S/o Late Bansropan Sharma resident of village- Khadany, P.s. - Dinara, District- Rohtas at Present Kochas, P.S. Kochas, District- Rohtas.

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. Ranjan kr. Jha, Advocate
For the Opposite Party/s	:	Smt. Anusaiya Jaiswal APP
For the State	:	Mr. Jharkhandi Upadhyay, APP

CORAM: HONOURABLE MR. JUSTICE SANDEEP KUMAR
ORAL ORDER

5 13-02-2023 Heard the learned counsel for the petitioners and

learned APP for the State.

None appears for the O.P. No. 2.

This application is filed for quashing the order dated 28.10.2013 passed in Complaint Case No. 1236 of 2012 by which the learned C.J.M. Sasaram has taken cognizance for the offence under Section 498(A) and Section 4 of the Dowry Prohibition Act against the petitioner.



Learned counsel for the petitioners submits that before filing of the complaint case, a matrimonial case for divorce was filed by the petitioner no. 1 in which the date of appearance was fixed on 26.02.2012 and after receiving the notice for appearance, the present complaint case has been filed. It has been further submitted by him that the divorce was sought on the ground of cruelty, desertion and misrepresentation by the opposite party no. 2 and his family members. He further submits that wife of petitioner no. 1 was suffering from serious ailments and she was treated at Varanasi and other places.

Learned counsel for the State has opposed the application and has submitted that the petitioner may be directed to raise all the grounds at the time of framing of charge.

Considering the submissions of the parties and from going through the materials available on record, it appears that the present complaint case is counter blast to the divorce petitioner and has been filed much after the divorce petitioner has been filed. This kind of *mala-fide* prosecution should not be allowed to continue. The parties can litigate their differences in the divorce petition but filing a false case against the petitioners including petitioner no. 1 who is employed in the Uttar Pradesh Police will vengeance upon the accused person.



Considering the aforesaid, this application is allowed
and the order dated 28.10.2013 in Complaint Case No. 1236 of
2012 passed by learned CJM , Sasaram is quashed.

(Sandeep Kumar, J)

Shishir/Vikas

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