

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Writ Jurisdiction Case No.1868 of 2018

Arising Out of PS. Case No.-298 Year-2018 Thana- KOTWALI District- Patna

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PREETI UPADHYAY @ PREETI CHATURVEDI @ PREETI KUMARI
CHATURVEDI Wife of Dushyant Upadyay, Daughter of Shambhu Nath
Choubey, at present Resident of Flat No. 402B, R.N. Apartment, I.A.S.
Colony, Kidwaipuri, Patna.

... .. Petitioner/s

Versus

1. The State Of Bihar Through The Principal Secretary, Home Department
Government Of Bihar and Ors
2. Superintendent of Police, Patna District, Patna.
3. Deputy Superintendent of Police, Patna, Subdivision, Patna.
4. S.H.O. Kotwali Police Station, Patna.
5. Vijay Shankar Pathak, Son of Late Parasnath Pathak, Resident of A/64,
Police Colony, Anishabad, Patna-12.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Saket Gupta, Advocate Mr. Arun Kumar Lal Mr. B. Jha, Adv Mr. Rahul Raj, Adv. Mr. Piyush Verma, Adv.
For the Respondent/s	:	Mr. Raghawanand, GA-11

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CORAM: HONOURABLE MR. JUSTICE SANDEEP KUMAR
ORAL ORDER

5 20-03-2023 None appears for the Opposite Party No. 2 despite
several notice.

Heard learned counsel for the petitioner and learned
counsel appearing on behalf of the State.

The F.I.R. has been filed by the maternal grandfather
of the husband of the petitioner. Now, the petitioner and her
husband has separated and obtained a divorce from the
competent Court i.e. the Principal Judge, Family Court, Patna.

It has been submitted by the learned counsel for the
petitioner that the trigger for lodging the F.I.R. is the



matrimonial dispute otherwise the informant has no locus to file the present F.I.R. and the F.I.R. could not have been registered without the previous sanction of the Central Government for which he relies on Section 15 of the Passport Act. He also relies on the Judgments of the Hon'ble Supreme Court in the case of ***Md. Ibrahim Vs. State of Bihar (2009) 8 SCC 751*** and ***Dr. Vimla Vs Delhi Administration 1963 Supp (2) SCR 585***.

This case seems to be malafide prosecution to wreck vengeance upon the petitioner only because the matrimonial relationship of the petitioner was spoiled with her ex-husband at the point when the F.I.R. was filed.

Considering the law laid down by the Hon'ble Supreme Court in the case of ***State of Haryana Vs. Bhajan Lal (1992) 7 SCC 698***, this malicious prosecution of the petitioner cannot continue.

In view of the above, the F.I.R. bearing Kotwali P.S. Case No. 298/2018 is hereby quashed.

(Sandeep Kumar, J)

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