

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Writ Jurisdiction Case No.984 of 2022

Arising Out of PS. Case No.-8 Year-2021 Thana- BAJPATTI District- Sitamarhi

Prabhakar Pathak Son Of Udit Narayan Pathak R/O Village- Mahuain, P.S.-
Bajpatti, Dist.- Sitamarhi.

... .. Petitioner/S

Versus

1. The State Of Bihar.
2. The Director General Of Police, Bihar, Patna.
3. The Deputy Inspector General Of Police, Muzaffarpur.
4. The Superintendent Of Police, Sitamarhi.
5. The S.H.O., Bajpatti District- Sitamarhi.
6. Dhirendra Jha Son Of Late Digambar Jha R/O Village- Depura, Police
Station- Benipatti, Dist.- Madhubani.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Ashok Kumar Jha, Adv.
For the Respondent/s	:	Mr. Shailesh Kumar, Adv.
	:	Mr. Ranjeet Kumar Mishra, Adv.

CORAM: HONOURABLE MR. JUSTICE DR. ANSHUMAN
ORAL ORDER

6 03-05-2023 Heard learned counsel for the petitioner and learned
counsel for the State.

The petitioner has filed this Cr. Writ petition for quashing of the F.I.R. bearing Bajpatti P.S. Case No. 08 of 2021 registered under Sections 304B, 201, 498A, 120B/34 of the Indian Penal Code and Section 3/4 of the Dowry Prohibition Act.

This court has issued notice in this case upon private respondent no.6, who appeared through his counsel before the Court, whose *vakalatnama* is on record. State has also filed a counter-affidavit.

Counsel for the petitioner submits that he has only one point to argue that complaint case has been entertained without filing the affidavit.

Counsel for the private respondent submits that it is true that at the time of filing the complaint, affidavit was not given but later on affidavit was filed and only after filing the affidavit, matter was refereed under Section 156(3) of the Code of Criminal Procedure. Counsel also submits that the judgment on which the petitioner has relied i.e. **Priyanka Srivastava and Anr. vs. State of Uttar Pradesh and Ors.** reported in **(2015)6 SCC 287 [: 2015(3) PLJR (SC)78]**, is not relating to cases under Sections 304B, 201, 498A, 120B/34 of the Indian Penal Code and Section 3/4 of the Dowry Prohibition Act, therefore, according to the private respondent the ratio laid down in the case of **Priyanka Srivastava and Anr. vs. State of Uttar Pradesh and Ors.** reported in **(2015)6 SCC 287 [: 2015(3) PLJR (SC)78]** shall not be applicable in this case.

Counsel for the State submits that during investigation, the charges found in the supervision report under Sections 304B, 201, 498A, 120B/34 of the Indian Penal Code and Section 3/4 of the Dowry Prohibition Act, are against the petitioner.

Counsel for the private respondent submits that on the one hand he is taking plea before this Court to quash F.I.R. and in the other he is evading his appearance in the trial, whereas his bail application has been rejected, as well as, the trial has stopped due to non-appearance of the petitioner.

In this view of the matter and upon going through the record and seeing the serious allegations made in the F.I.R. and also going through the judgment of **Priyanka Srivastava and Anr. vs. State of Uttar Pradesh and Ors.** reported in **(2015)6 SCC 287 [: 2015(3) PLJR (SC)78]** it has come that the case is not relating to serious nature as like the present one, as well as, on the basis of the arguments made by counsel for the petitioner that affidavit is already on record and after filing affidavit only the matter came under Section 156(3) for lodging the F.I.R.

Accordingly, the present Cr. Writ Application stands dismissed.

Trial court is directed to the needful for securing the appearance of the petitioner.

(Dr. Anshuman, J.)

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