

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.2059 of 2022**

Arising Out of PS. Case No.-75 Year-2019 Thana- MAHILA PS District- Darbhanga

Jameel Javed @ Munna S/o Hazi Muzubur Rahaman R/o Village- Dalaur-Sobhan, P.S.- Simri, District- Darbhanga.

... .. Petitioner/s

Versus

1. The State of Bihar
2. Farhat Naz Wife of Jameel Javed R/o Mohalla- Bisunpur, P.S.- L.N.M. University, District- Darbhanga, Daughter of Mokhtar Ahmad, R/o Ijarhatta, P.S.- Manigachhi, District- Darbhanga.

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Baidya Nath Prasad
For the Opposite Party/s : Mr.Ganesh Prasad Singh

**CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR SINGH
ORAL ORDER**

2 15-02-2024 Heard learned counsel for the petitioner and learned
A.P.P. for the State.

2. This petition has been filed for quashing the order dated 13.10.2020 passed by the learned Ms. Romi Kumari, J.M. 1st Class, Darbhanga in Mahila P.S. Case No. 75 of 2019 whereby the learned Magistrate took cognizance under Sections 323, 406, 498A, 494, 504/34 of the I.P.C. and Section 3 / 4 of the Dowry Prohibition Act.

3. The prosecution case, in brief, is that informant was married with this petitioner and she was living at her matrimonial house, but after some time, all the accused persons including this petitioner started torture and harassment to the



informant for dowry. It is further alleged that out of the wedlock, the informant was blessed with two daughters, but her in-laws members continued to harass her, in the meantime, she got the knowledge that her husband solemnised second marriage and on protest, the informant was ousted from her matrimonial house and at present, she is living with her children at her paternal house.

4. It is submitted on behalf of petitioner that no such occurrence, as alleged in the F.I.R., has ever taken place. In fact, petitioner became fed up due to ill-nature and activity of opposite party no. 2. The opposite party no. 2 always quarrels with petitioner and puts pressure on him to live separately. It is further submitted that on 23.07.2019, the family members of opposite party no. 2 assaulted the petitioner and abused in filthy language due to refusal of the petitioner for registration of sale-deed in the name of O.P.-2 and took signature of the petitioner on blank papers, for which, the petitioner filed a complaint case against the accused persons including O.P.-2 on 25.07.2019 in the court of learned C.J.M., Darbhanga (Annexure 4 to the petition) and only thereafter, this false and concocted case has been lodged by O.P.-2.

5. However, learned A.P.P. for the State vehemently



opposes the petition and submits that there is specific materials on record for taking cognizance of the offence against petitioner and as such, this Court should not interfere in the order of cognizance.

6. Having heard learned counsel for the parties and perusing the materials available on record, this Court is of the considered opinion that learned Magistrate has not committed any irregularity / illegality in passing the order of cognizance. The grounds, which has been raised by the petitioner, are his defence, which can only be considered by leading evidence. The order of cognizance cannot be quashed on the affidavits, which is not permissible in law.

7. Accordingly, the petition stands dismissed.

(Prabhat Kumar Singh, J)

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