

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.68266 of 2023

Arising Out of PS. Case No.-1008 Year-2022 Thana- BUXAR District- Buxar

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Puspha Devi W/O Om Prakash Upadhyay, D/O Janardan Tiwawry Resident Of Village - Mishrauli, P.S. - Bihiya, District - Bhojpur (ARA), Bihar. At Present - Gandhipath, K.S. Colony, Chas, P.O. And P.S. - Chas, District - Bokaro (JHARKHAND). Temporary Address Ramnagar, Varanasi (UTTAR Pradesh)

... .. Petitioner/s

Versus

1. The State Of Bihar
2. Om Prakash Upadhaya @ Halchal Upadhaya Son Of Late Shashikant Upadhaya Resident Of Village - Yogiya, P.O. And P.S. - Brahmpur, District - Buxar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s	:	Mr.Abhash, Advocate
For the State	:	Mr.Madan Kumar, APP
For the OP No. 2	:	Mr. Vivekanand Singh, Advocate

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CORAM: HONOURABLE MR. JUSTICE SANDEEP KUMAR
ORAL ORDER

3 15-07-2024 Heard the parties.

2. The present application has been filed for quashing the order dated 18.04.2023 passed by learned Judicial Magistrate, Ist Class, Buxar in connection with complaint case No. 1008 (C)/2022 by which he has taken cognizance under section 379 of the Indian Penal Code against the petitioner.

3. As per the complainant, on 12.09.2019, O.P. No.2 (Petitioner) has run away from complainant's home. The



complainant searched for 3 years but could not find her and the accused has taken away Rs. 1 lakh 80 thousand cash and ornaments of nearly worth Rs.16 lakh.

4. The petitioner is the wife of the complainant. Due to matrimonial dispute, number of litigations are going on between the parties which includes matrimonial case and maintenance case and it has been submitted that the present case has been filed as a counter blast to those cases by the petitioner.

5. Learned counsel for the petitioner has submitted that this kind of *mala fide* prosecution should not be allowed to continue.

6. Learned APP for the State and learned counsel for the opposite party no. 2 have opposed the application and have submitted that since *prima facie* case has been found by the Magistrate, the quashing petition should be dismissed.

7. I have considered the submissions of the parties. After going through the records, it appears that it is a *mala fide* prosecution at the hands of the husband who is having matrimonial dispute with his wife. This kind of false and frivolous case should not continue.

8. In view of the above, this application is allowed.

9. The order dated 18.04.2023 passed by the learned



Judicial Magistrate, Ist Class, Buxar in connection with
Complaint Case No. 1008(C) of 2022 is hereby quashed.

(Sandeep Kumar, J)

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