

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.39004 of 2019

Arising Out of PS. Case No.-156 Year-2013 Thana- MAHILA P.S. District- Bhojpur

Phoolbadan Kunwar @ Phoolbadna Devi, W/o Late Tulsi Choudhary @
Ramji Choudhary Resident of Mohalla- Near Buxar Golamber, Ful Niwas
Industrial Area, P.O. and P.S.- Buxar Industrial Area, District- Buxar.

... .. Petitioner/s

Versus

1. The State of Bihar
2. Bandana Devi W/o Jitendra Choudhary Resident of Mohalla- Near Buxar
Golamber, Ful Niwas Industrial Area, P.O. and P.S.- Buxar Industrial Area,
District- Buxar. at Present residing at Village- Suhiya, P.O.- Suhiya, P.S.-
Sahpur, District- Bhojpur.

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. Sushant Praveer, Adv. Mr. Yogesh Kumar, Adv.
For the State	:	Mr. Dr. Kumar Uday Pratap, APP
For the O.P. No. 2	:	Mr. Md. Waliur Rahman, Adv. Mr. Ramanuj Tiwari, Adv.

CORAM: HONOURABLE MR. JUSTICE SHAILENDRA SINGH
ORAL ORDER

8 23-01-2025 Heard Mr. Sushant Praveer, learned counsel for the

petitioner, Mr. Dr. Kumar Uday Pratap, learned APP for the

State and Mr. Md. Waliur Rahman, learned counsel for the O.P.

No. 2.

2. The instant criminal miscellaneous petition has
been filed with a prayer to quash the order dated 16.04.2018
passed by the court of Sub Divisional Judicial Magistrate,
Bhojpur at Ara in Complaint Case No. 2258(C) of 2013 by
which a prayer for discharge made by the petitioner under
section 239 of Cr.P.C. has been rejected.



3. The main grounds taken by the petitioner's counsel to assail the order impugned are that firstly, the petitioner is mother-in-law of the O.P. No. 2, who filed the complaint which was sent to police for investigation and secondly, in the entire complaint, there is no specific allegation against her and thirdly, the main allegation is against the husband of the O.P. No. 2 as to solemnizing second marriage but he was not chargesheeted and fourthly, the petitioner has been residing separately from the complainant/O.P. No. 2 as well as her husband since 2003 and in this regard, Annexure – 'P/3' filed with supplementary affidavit is relevant in which the O.P. No. 2 herself accepted that the petitioner had been residing separately from the husband of the O.P. No. 2.

4. On the other hand, learned counsel appearing for the O.P. No. 2 has opposed the petitioner's prayer mainly on the grounds that the Annexures - 'P/2' and 'P/3' filed by the petitioner with the supplementary affidavit are not reliable rather the same is completely doubtful as the complainant made allegation in her complaint that the accused got her signature on a blank paper and the same has been misused by the petitioner for creating a false document and further, it is a question of fact which can be decided by the trial court itself by taking



evidences and secondly, co-accused Dudhnath Chaudhary, who is brother-in-law of the O.P. No. 2 and carrying similar nature of allegation, initially approached the revisional court for the same relief which has been sought by the petitioner and that prayer was rejected by the revisional court vide order dated 16.04.2018 after having considered the materials available in the case diary particularly the paragraph Nos. 2, 3, 17, 19, 20 and 22 of the case diary and that prayer for discharge made under section 239 of Cr.P.C. was rejected and the case of petitioner does not stand on similar footing as that of co-accused Dudhnath Chaudhary rather his case is more serious than the said co-accused as the petitioner is mother-in-law of the O.P. No. 2.

5. Heard both the sides and perused the order impugned and other relevant materials. Though in the complaint filed by the O.P. No. 2 against the petitioner, there is no specific allegation against her but the petitioner is alleged to have participated in all the alleged occurrences of which details have been given in the complaint by the O.P. No. 2 and further, after the investigation she was chargesheeted and the defences taken by the petitioner discussed above are to be looked into by the trial court itself after taking evidences and at this stage, in view of materials available before this Court, this Court is not



persuaded to form the opinion that the allegations levelled against the petitioner are completely groundless. As such, this Court finds the order impugned, rejecting the petitioner’s prayer, to be proper and there is no need to interfere with the same, so, the instant criminal miscellaneous petition stands dismissed.

(Shailendra Singh, J)

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