

IN THE HIGH COURT OF JUDICATURE AT PATNA

Cr.Misc. No.20111 of 2007

Malti Kumari (Ambasta), Wife of Lalit Kumar Ambasta, Resident of Mohalla Linepar Mirjapur, Nawada, Police Station Nawada, District Nawada.

----- Petitioner

Versus

1. State of Bihar.

2. Shambhu Shankar Prasad, S/o Late Gopi Singh, R/o Linipar Mirzapur, P.S. Nawada, District Nawada.

----- Opposite Parties

5 29.1.2010 Heard learned counsel for the petitioner and counsel for the State.

The petitioner being aggrieved by an order dated 1.3.2007 summoning her under Section 319 of the Code of Criminal Procedure (Cr.P.C.) has moved this Court with a case that earlier she was also named as an accused in the complaint petition but the learned magistrate after holding an enquiry under Section 202 of the Cr.P.C. having found no case against her had not taken cognizance and issued summons as against her. Counsel submits that subsequently the petitioner could not have been there for summon in exercise of power under Section 319 of the Cr.P.C. He would rely on a judgment of this Court in the case of **Rama Devi & Anr. Vs. State of Bihar & Anr.** reported in **2004 (2) PLJR 225.**

Counsel for the State admits this

position that the complainant had hold the petitioner also as one of the accused in the complaint petition and the court below had found no case against her and as such, had not issued summon to her.

That being so, this case is squarely covered by the ratio of the Rama Devi case (supra) and accordingly, the order dated 1.3.2007 is hereby quashed.

Rsh

(Mihir Kumar Jha, J.)

