

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**Criminal Miscellaneous No.39944 of 2011**

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1. Md. Hakim Ahmad , son of Dr. Abuddin Ahmad  
2. Mumtaz Begum W/O Md. Hakim Ahmad  
3. Yusuf Ahmad, S/O Sri Hakim Ahmad  
All residents of Main Road, Near L.M.L. Show Room, I.T. Gomia,  
District- Bokaro ( Jharkhand), at present residing at M.P.S. Residency, 200  
Near Sipra Moul, Indrapuram, Gaziabad (U.P.)

.... .... Petitioners

Versus

1. The State of Bihar  
2. Maqbool Alam @ Maqbool Ansari, S/O Anis Ansari, resident of  
Mohalla- Karimchak ( Imli Mohalla), P.S. Chapra Town, P.O. Chapra,  
District- Saran ( Chapra)  
3. Saba Parveen D/O Maqbool Alam, resident of Mohalla- Karimchak  
(Imli Mohalla), P.S. Chapra Town, P.O. Chapra, District- Saran  
(Chapra)

.... .... Opposite Parties

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**CORAM: HONOURABLE MR. JUSTICE RAKESH KUMAR**  
**ORAL ORDER**

5    30-04-2014                      Heard Sri Abhinay Raj, learned counsel for the  
  
petitioners, Sri Jharkhandi Upadhaya, learned Addl. Public  
  
Prosecutor as well as Sri Sushil Kumar Singh, learned counsel,  
  
who has appeared on behalf of Opp.Party nos. 2 and 3.

Three petitioners, invoking inherent jurisdiction under  
Section 482 of the Code of Criminal Procedure, have prayed for  
quashing of an order dated 21.07.2011 passed by the learned Chief  
Judicial Magistrate, Saran at Chapra in Chapra Town P.S. Case  
No.100 of 2010, Tr. No. 2324 of 2011. By the said order, the  
learned Magistrate has taken cognizance of offence under Section  
498(A) of the Indian Penal Code and Section 3 and 4 of the Dowry

Prohibition Act.

Learned counsel for the petitioners submits that in the present case, F.I.R. was lodged maliciously only after the daughter of the informant had received notice in a case, which was filed by petitioner no.3, husband of daughter of the informant vide Matrimonial (Divorce) Suit No. 2 of 2010. On this ground alone, he has prayed for quashing the order of cognizance.

Learned counsel appearing on behalf of the informant has opposed the prayer of the petitioners. He submits that after investigation, accusation against the petitioners was found true and, as such, chargesheet was submitted. Petitioners' name were mentioned in column no.11 of the chargesheet and, thereafter, learned Magistrate by the impugned order has passed order of cognizance. He further submits that the petitioner no.3 is a habitual offender of such offence. He submits that earlier the petitioner no.3 was tried for an offence under Section 498(A) of the Indian Penal Code, which was lodged by one another lady. In that case, petitioner no. 3 was held guilty and has been convicted and sentenced.

Besides hearing learned counsel for the parties, I have also perused the materials available on record. Fact remains that from the F.I.R. itself, it is evident that the date of occurrence was

from 07.08.2008 till the date of filing of the F.I.R. i.e. 03.05.2010.

Filing of the divorce suit prior to lodging of the F.I.R has got no relevance at the moment. Apparently, there is no error in the order of cognizance.

The petition stands dismissed.

In view of dismissal of this petition, interim order of stay dated 17.01.2013 stands vacated.

**(Rakesh Kumar, J)**

NKS/-