

Pradeep Kumar Sharma Vs State Of Bihar

Court: Patna High Court

Date of Decision: Sept. 21, 2022

Acts Referred: Indian Penal Code, 1860 " Section 498A
Code Of Criminal Procedure, 1973 " Section 482

Hon'ble Judges: Arun Kumar Jha, J

Bench: Single Bench

Advocate: Kumar Kaushik, Meena Singh

Final Decision: Disposed Of

Judgement

Heard learned counsel for the petitioners and learned APP for the State.

In the present case, the petitioners are challenging the cognizance order dated 04.03.2017 passed by learned Additional Chief Judicial Magistrate-III,

Patna City, Patna whereby cognizance has been taken against the petitioners for the alleged offence under Section 498 (A) of the Indian Penal Code

in connection with Complaint Case No. 836 of 2016.

It has been submitted by the learned counsel for the petitioners that trial has proceeded in the case and evidence on behalf of the prosecution is being

recorded. Despite this fact, the petitioners want to assail the cognizance order as it is based on non-appreciation of the material facts of the case

specially against the petitioner nos. 2 to 4.

Since the petitioners have challenged the cognizance order questioning the facts and controverting the assertions made by the complainant in the

complaint petition, it is well settled preposition of law that this Court would not go into the disputed questions of facts while exercising its power under

Section 482 Cr.P.C. It has no jurisdiction to examine the correctness or otherwise of the allegation.

The aforesaid propositions were laid down by the Supreme Court in the case of Smt. Nagawwa Vs. Veeranna Shivalingappa Konjalgi, AIR 1976 SC

1947 and Madhavrao Jiwagi Rao Sciendia Vs. Sambhajirao Chandiojirao Angre, AIR 1988 SC 709 and quoted with approval in the case of State of

Haryana and Others Vs. Bhajan Lal and Others, AIR 1992 SC 604.

Now, from the facts of the present case, it is obvious that the petitioners want to invoke the inherent jurisdiction of this Court under Section 482

Cr.P.C. to test the veracity of the facts since they have controverted the same with another set of the facts. I am afraid the petitioners could not

succeed in getting any relief from this Court as this Court lacks jurisdiction to examine the correctness of the allegation. Furthermore, the case of the

petitioner is also not covered under any of the guidelines as enumerated by the Supreme Court in Bhajanlal Āçā, Āçā, Āçā's case (Supra).

At this stage, learned counsel for the petitioners seeks permission to withdraw this application with liberty to raise all issues, which have been raised

herein in this petition, before the learned trial court.

Accordingly, this application is disposed of with liberty to the petitioners to raise all points before the learned trial court, which will be considered by it

on its own merit without being prejudiced by the present order.