

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No. 20428 of 2012

Arising out of P.S. Case No. -43 Year- 2010 Thana -
Manigachhi District- DARBHANGA

- =====
1. Anita Choudhary W/o Randhir Choudhary Residing In Mohalla Quarter No. 3e, Road No. 15, Sector-7, Bhilainagar, Distt- Durg (Chhatisgadh)
 2. Ashwani Mishra S/o Shanker Mishra Residing In Mohalla Quarter No. 3e, Road No. 15, Sector-7, Bhilainagar, Distt- Durg (Chhatisgadh)
 3. Leela Jha @ Leena Jha W/o Ganpati Jha Residing In Village- Waradih Basti, Loknaya Path, P.S- Sidhgora (Jamsedpur).
 4. Ganpati Jha @ Ganpati Kr. Jha S/o Late Lokan Jha Residing In Village- Waradih Basti, Loknaya Path, P.S- Sidhgora (Jamsedpur).

.... Petitioner/s

Versus

1. The State of Bihar.
2. Ashu Mishra D/o Late Premanand Kumar. Resident of Village- Pulai, P.S- Manigachhi, District- Darbhanga.

.... Opposite Party/s

with

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Criminal Miscellaneous No. 35631 of 2012

Arising out of P.S. Case No. -43 Year- 2010 Thana -
Manigachhi District- DARBHANGA

- =====
1. Shankar Mishra Son of Late Narayan Mishra Residing In Quarter No. 3 / E, Road No. 15 Sector 7, Bhilai Nagar, District Durg, Chhatisgadh.
 2. Arundati Devi Wife of Shankar Mishra Residing In Quarter No. 3 /E, Road No. 15 Sector 7, Bhilai Nagar, District Durg, Chhatisgadh.

.... Petitioner/s

Versus

1. The State of Bihar.
2. Ashu Mishra D/o Late Premanand Mishra Resident of Village Puttai, P.S. Manigachhi, District - Darbhanga.

.... Opposite Party/s

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Appearance :

(In Cr.Misc. No. 20428 of 2012)

For the Petitioner/s : Mr. Sanjiv Kumar Jha, Adv.

For the Opposite Party/s : Mr. Arun Kumar Singh-I, Adv.

(In Cr.Misc. No. 35631 of 2012)

For the Petitioner/s : Mr. Sanjiv Kumar Jha, Adv.

For the Opposite Party/s : Mr. Gajendra Pd. Yadav, APP.

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CORAM: HONOURABLE JUSTICE SMT. ANJANA PRAKASH

ORAL JUDGMENT

Date: 19-02-2015

The Petitioners who are the in-laws seek quashing of the entire proceeding including the order of non-discharge dated 29.03.2012 passed by the Sub-Divisional Judicial Magistrate, Darbhanga in Manigachhi P.S. Case No. 43 of 2010 (G.R. No. 662 of 2010, Tr. No. 3275 of 2012).

The case of the Informant is that she was married to Achutanand Mishra on 21.02.2007 after which she started living in her matrimonial home. At the time of her marriage huge amount of money was given to the in-laws on their demand. However, they demanded more dowry and on non-fulfilment of the same tortured her. The further allegation was that she filed a Complaint Case No. 226 of 2009 before the Chief Judicial Magistrate, Jamshedpur after which the accused persons started to settle the dispute. They had assured to keep her well at which the earlier Complaint was withdrawn and she went back to her matrimonial home on 15.10.2009. However, soon thereafter the accused persons once again stated torturing her on account of which she left her matrimonial home.

It has been submitted on behalf of the Petitioners that on going through the First Information Report there is no mention of any specific torture having been meted out by the accused persons. It has also been submitted that husband had

some Complaints against his wife on account of which a Complaint was filed before the S.H.O. Lady P.S. Durg (Chhatisgadh) on 29.05.2008 in regard to her behaviour. He also filed Matrimonial Suit No. 4337 of 2010 for dissolution of marriage after which the present Complaint was filed on 06.02.2010. It is in this background that the Petitioners seek discharge.

On the other hand, Counsel for the Informant submits that the accused persons had declared her mentally ill on account of which basis her husband obtained decree in the Matrimonial Suit.

Having gone through the facts mentioned above as well as the allegations in the Complaint Petition, I would be inclined to allow the prayer of the present Petitioners.

Hence, the applications are allowed and the proceeding including the order of non-discharge dated 29.03.2012 passed by the Sub-Divisional Judicial Magistrate, Darbhanga in Complaint Case No. Manigachhi P.S. Case No. 43 of 2010 (G.R. No. 662 of 2010, Tr. No. 3275 of 2012) is, hereby, set aside so far as the Petitioners are concerned.

The Applications stand allowed.

(Anjana Prakash, J)

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