

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.30506 of 2014

Arising Out of Complaint Case No.259 Year- 2009 District- AURANGABAD

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1. Md. Isar Ansari @ Rinu
2. Md. Waquar Ansari @ Chinu
Both Sons of Md. Ilyas Ansari @ Ilyas Mistri
3. Ghufrana Kauser, Daughter of Md. Ilyas Ansari @ Ilyas Mistri
All resident of Mohalla- New Dillian, P.O. AND P.S. Dehri-On-Sone, Rohtas,
Bihar.

.... Petitioner/s

Versus

1. The State of Bihar
2. Tabassum Ara, W/O Md. Amir Ansari, D/O Md. Jamaluddin Ansari, presently
residing at Mohalla Imlitar, Purani Shahar, Post and P.S. Daudnagar, Distt.
Aurangabad.

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Avanish Kumar Singh, Adv.
For the State : Mr. Sanjay Kr. Tiwary, A.P.P.

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CORAM: HONOURABLE JUSTICE SMT. ANJANA PRAKASH

ORAL JUDGMENT

Date: 24-09-2015

Heard learned counsel for the Petitioners and the State.

The Petitioners seek quashing of the order dated 22.2.2014 by which the Ad hoc Additional Sessions Judge II, Aurangabad, in Criminal Revision No. 44 of 2013/21 of 2014 affirmed the order dated 11.2.2013 passed by the Sub Divisional Judicial Magistrate, Daudnagar, in Complaint Case No. 259 of 2009, Trial No. 414 of 2012 by which he had issued notices to them to face trial under the Provisions of Section 319 Cr. P.C.

The background facts of the case are that the



Complainant was married to the brother of the Petitioners on 13.10.2000 on which occasion large number of gifts were given to the in-laws. She then came to the Matrimonial home but she was tortured for ends of dowry. Her husband was not interested in establishing matrimonial relationship and assaulted her on various occasions. Finally, on 25.7.2009 she was ousted from the matrimonial home and since then, she was residing in her maternal home.

It has been submitted that when the Complainant filed a case against the entire family members, the Court did not think it proper to proceed against the present Petitioners against whom there is no specific allegation. However, when the evidence before charge was adduced, the Petitioners on an application filed under Section 319 Cr. P.C. were summoned, which order was challenged before the Revisional Court which also confirmed it and the Petitioners moved the present application.

The submission is that the on facts, no criminal offence whatsoever is made out against the Petitioners and the allegations are general and vague in nature which does not warrant putting them on Trial.

On the other and, the counsel for the Complainant submits that since the Petitioners were close family members and had participated in torturing her, they should be tied.

Having considered the nature of allegations against the Petitioners, duration of marriage of the Complainant with her husband, I would be inclined to hold that the Sub Divisional Judicial Magistrate, Daudnagar, Aurangabad, has exercised its power under Section 319 Cr. P.C. unwisely.

Hence, the application is allowed and the Proceeding including the order dated 22.2.2014 passed by the Ad hoc Additional Sessions Judge II, Aurangabad, in Criminal Revision No. 44 of 2013/21 of 2014 as also the order dated 11.2.2013 passed by the Sub Divisional Judicial Magistrate, Daudnagar, Aurangabad, in Complaint Case No. 259 of 2009, Trial No. 414 of 2012, are, hereby set aside.

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(Anjana Prakash, J)

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