

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.1453 of 2012

Arising Out of PS.Case No. -0 Year- null Thana -null District- BUXAR

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1. Shiv Shankar Prasad,
 2. Uma Shankar Prasad,
 3. Shiv Ji Prasad, all S/O Badal Prasad,
 4. Badal Prasad, S/O Late Saryu Prasad,
 5. Smt. Bimla Devi, W/O Sri Badal Prasad, all resident of Saheb Tola, Bihia, Durga Mandir, P.S.- Bihia, District- Bhojpur

.... Petitioner/s

Versus

1. The State of Bihar
2. Smt. Janki Devi, W/O Shiv Shankar Prasad, resident of Brahmapur, P.S.- Brahmapur, District- Buxar

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. L. N. Das, Advocate

For the Opposite Party/s : APP

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CORAM: HONOURABLE JUSTICE SMT. ANJANA PRAKASH

ORAL JUDGMENT

Date: 05-02-2015

1. No one appears on behalf of the Opposite Party No.2.

2. This application in so far as Petitioner No.1, Shiv Shankar Prasad, is concerned is permitted to be withdrawn.

3. The rest of the Petitioners are brothers-in-law and parents-in-law respectively of the Complainant, who seek quashing of the order of non-discharge dated 07.12.2011 passed by the Sub-Divisional Judicial Magistrate, Buxar, in Case No. 1815 GR 10/1646 TR 11.

4. The case of the Informant is that she was married



to the Petitioner No.1 on 21.11.2009 on which occasion large number of gifts were given to the in-laws. Initially, she was kept well but later on in-laws started torturing her for dowry. One day, her husband coerced her on the point of knife to give an Affidavit in the Court below against her will. Subsequently, eight months later she was thrown out of the matrimonial home whereafter she was living with her parents.

5. It has been submitted that elder sister of the Informant was married with Petitioner No.2 on 27.04.2008, whereas, the Informant was married with the Petitioner No.1 on 21.11.2009 i.e. after about 20 months. Fact of the matter is that the Informant did not want to live in her matrimonial home on account of which her husband gave her two legal notices on 06.05.2010 and 20.05.2010 to return to her matrimonial home. He then filed Matrimonial Case No.74 of 2010 for restitution of conjugal rights before the Family Court, Buxar, on 08.06.2010. It is thereafter that the present First Information Report was instituted on 14.06.2010 in order to create defence. Preliminary enquiry into the matrimonial dispute was done by the Inspector, Bihiya P.S., who reported against the Informant.

6. Having considered the facts and circumstances of the case, I would be inclined to hold that the surrounding circumstances reveal that there was some kind of matrimonial

incompatibility between the spouses which has led to institution of the First Information Report and Petitioner Nos. 2 to 5 have no role to play in the same.

7. Hence, the order of non-discharge dated 07.12.2011 passed by the Sub-Divisional Judicial Magistrate, Buxar, in Case No. 1815 GR 10/1646 TR 11 is hereby set aside in so far as Petitioner Nos. 2 to 5 are concerned.

8. Application stands allowed in part.

(Anjana Prakash, J)

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