

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.20890 of 2012

Arising Out of PS.Case No. -59 Year- 2011 Thana -null District- PATNA

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1. Vimal Kumar, son of Sri Surendra Ram,
 2. Soni Devi, w/o Sri Vimal Kumar, both resident of Mohalla-Chitrakut Nagar (Takiyar Par), P.S. Danapur, District- Patna &
 3. Aarati Devi, w/o Sri Jitendra Kumar, Mohaalla- Ghagha Ghat (Bakasriya Tola), P.S.-Sultanganj, District- Patna.

.... Petitioner/s

Versus

The State of Bihar

.... Opposite Party/s

With

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Criminal Miscellaneous No. 31389 of 2012

Arising Out of PS.Case No. -59 Year- 2011 Thana -null District- PATNA

- =====
1. Dheeraj Kumar, S/O Sri Ashok Kumar,
 2. Ashok Kumar, S/O Late Laxmi Narayan Prasad,
 3. Radhika Devi, W/O Sri Ashok Kumar, all resident of mohalla- Lohanipur (Upadhyay Lane), P.S.+P.O.- Kadamkuan, Dist.- Patna

.... Petitioner/s

Versus

1. The State of Bihar

.... Opposite Party/s

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Appearance :

(In Cr.Misc. No. 20890 of 2012)

For the Petitioner/s : Mr. Apurva Kumar, Advocate

For the Opposite Party/s : Mr. Makardhwaj Upadhyay, Advocate
Mr. Parmannnd Prasad, APP

(In Cr.Misc. No. 31389 of 2012)

For the Petitioner/s : Mr. Apurva Kumar, Advocate

For the Opposite Party/s : Mr. Makardhwaj Upadhyay, Advocate
Mr. A. A. Khan, APP

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CORAM: HONOURABLE JUSTICE SMT. ANJANA PRAKASH

ORAL JUDGMENT

Date: 22-04-2015

1. On the last occasion, it was noted in the order-sheet of Cr. Misc. No. 20890 of 2012 that the husband was not ready to resume the matrimonial relationship with the Opposite Party No.2. In

view of such, an offer was made for one time settlement. The Opposite Party No.2 has appeared and she submits that she wants to live with her husband and is not ready for one time settlement.

2. Learned counsel for the Petitioners seeks permission to withdraw the application of Petitioner No.1, Dheeraj Kumar, of Cr. Misc. No. 31389 of 2012.

3. Accordingly, Cr. Misc. No.31389 of 2012 is dismissed as withdrawn in so far Petitioner No.1 is concerned.

4. Rest of the Petitioners, who are the parents-in-law, brother-in-law and sisters of the husband of the Opposite Party No.2, seek quashing of the orders of non-discharge dated 24.03.2012 & 11.06.2012 respectively passed by the Sub-Divisional Judicial Magistrate, Patna, in Kadamkuan P.S. Case No.59 of 2011/G.R. No.973 of 2011.

5. The case of the Informant is that she was married to Dheeraj Kumar, who was employed as RPF Constable in West Bengal, on 17.06.2009 at Patna, whereafter she lived in matrimonial home for 1-2 days. In this period, the in-laws started assaulting her and asking her to get ₹five lac from her father for buying a piece of land. When she informed her husband about this, even he assaulted her. She further stated that on the occasion of the marriage, her father had given her ₹two lac and jewelry as also a motor cycle but when



she was returning to her maternal home after few days her in-laws took away her jewelry. Her husband then took her to West Bengal where he used to drink and assault her and his friends also misbehaved with her. In 2010, during the occasion of Holi, when her brother went to her house, her husband misbehaved with her. However, she left for her maternal home. On a certain date, her husband came along with some friends and his brother-in-law to her house and abused, assaulted her and threatened her parents for demanding ₹five lac. It was then that the present case was filed.

6. It has been submitted on behalf of the Petitioners that as per the admission of the Informant she stayed in her matrimonial house for a very short period and it appears improbable that in such a short period she would have been tortured. In any view of the matter, no specific overt act has been alleged against any of the Petitioners.

7. On the other hand, counsel for the Opposite Party No.2 submits that since the accused persons were family members of the husband, they were duty bound to ensure that matrimonial life of the husband and wife is not disturbed and instead they have created confusion.

8. Having gone through the contents of the First Information Report, I would be inclined to hold that so far Petitioners

are concerned no offence under Section(s) 498-A Indian Penal Code is made out.

9. Hence, the order of non-discharge dated 24.03.2012 & 11.06.2012 respectively passed by the Sub-Divisional Judicial Magistrate, Patna, in Kadamkuan P.S. Case No.59 of 2011/G.R. No.973 of 2011, are hereby set aside.

10. The applications stand allowed.

11. It has been submitted that the Family Court has directed payment of monthly maintenance of ₹five thousand which the Petitioner No.1, Dheeraj Kumar, (Cr. Misc. No. 31389 of 2012) is not regularly depositing.

12. The Principal Judge, Family Court, Patna, is directed to communicate to the controlling Officer of the Petitioner No.1, Dheeraj Kumar, (Cr. Misc. No.31389 of 2012) so that the amount of maintenance can be debited from his salary and credited into the account of the Opposite Party No.2. The Opposite Party No.2 shall furnish the details of the bank account in the Family Court.

(Anjana Prakash, J)

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