

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.41923 of 2014

Arising Out of PS.Case No. -228 Year- 2012 Thana -JAKKANPUR District- PATNA

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Sheela Prasad wife of Late Digambar Prasad R/o Mission Hospital Road, Revindro Path, Hazaribagh, Jharkhand

.... Petitioner/s

Versus

1. The State of Bihar
2. Sweta Rani Rukhaiyar D/o Sahri Brijnandan Prasad Mohalla Old Jakkanpur, Near Manjusha Convent, P.O.GPO, P.s. Jakkanpur, Patna

.... Opposite Party/s

with

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Criminal Miscellaneous No. 40826 of 2014

Arising Out of PS.Case No. -228 Year- 2012 Thana -JAKKANPUR District- PATNA

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Ashwini Kumar Srivastava @ Ashwini Srivastava S/o Late Digambar Prasad, R/o Mission Hospital Road, Ravindro Path, Hazaribagh, Jharkhand

.... Petitioner/s

Versus

1. The State of Bihar
2. Sweta Rani Rukhaiyar, D/O Sahri Brij Nandan Prasad, Mohalla- Old Jakkanpur, Near Manjusha Convent, PO- GPO, PS- Jakkanpur, Patna

.... Opposite Party/s

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Appearance :

(In Cr.Misc. No. 41923 of 2014)

For the Petitioner/s : Mr.

For the Opposite Party/s : Mr.

(In Cr.Misc. No. 40826 of 2014)

For the Petitioner/s : Mr.

For the Opposite Party/s : Mr.

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CORAM: HONOURABLE JUSTICE SMT. ANJANA PRAKASH

ORAL JUDGMENT

Date: 10-09-2015

The petitioners who are mother-in-law and brother-in-law of the O.P. No. 2 seeks quashing of the order of cognizance dated 02.09.2013 passed in Jakkanpur P.S. Case No. 228 of 2012, G.R. No.

4302 of 2012 by the Judicial Magistrate, 1st Class Patna.

The case of the informant is that she was married to Avinash Kumar Srivastava on 08.12.2010 where after she went to her matrimonial home at Hazaribagh where for about two months she was kept well but later on the in-laws misbehaved and started demand of dowry for repairing the house. They tortured her by various ways. Also the brother-in-law started making unusual demands upon her and when she refused, she was assaulted by her husband and others. On 29.07.2012 she received a notice from the Civil Court with regard divorce petition having been filed in Hazaribagh by the husband. When she went there once again demands of dowry were met and they told that they would keep her only if the demands were met. Her father flatly refused to give any additional dowry at which the in-laws threatened of burning her certificates and also snatched her chain.

The submission of the petitioners is that indeed it is true that the informant was married to son/brother of the petitioners but fact of the matter is that there was some incapability between the spouses. Initially the marriage went well but later the relationship soured on account of which the husband filed divorce petition on grounds of cruelty. Also they were received threats from the brother of the informant for which an informatory petition was filed. At one point of time the husband also filed a petition for reconciliation on

11.07.2012 before D.L.B.A, Hazaribagh. After which they started living well but once again the relationship soured and continuous threats were given to him. It was then he filed a suit for divorce on 06.08.2012. Having heard of the divorce case having been filed, the present first information report was instituted to create a defence.

On the other hand, the informant submits that in the first information report, details of manner of torture she has given which being correct, petitioners should be put on trial.

Having considered the relationship of the present petitioners with the informant and the fact of Divorce Petition and the nature of allegations also that it is impossible to believe that a person would tortured for ends of dowry even after birth of a child, the application is allowed and the order of cognizance dated 02.09.2013 passed in Jakkanpur P.S. Case No. 228 of 2012, G.R. No. 4302 of 2012 by the Judicial Magistrate, 1st Class Patna is hereby set aside so far as the petitioners are concerned.

(Anjana Prakash, J)

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