

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.37268 of 2015

Arising Out of PS.Case No. -30 Year- 2013 Thana -PATNA COMPLAINT CASE District- PATNA
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1. Pavan Kumar @ Pawan Kumar Mandal @ Pawan Kumar
2. Lalan Kumar @ Lalan Kumar Mandal, Both sons of Late Arjun Mandal
3. Pinki Devi wife of Lalan Kumar Mandal All resident of Village-
Khuthadih, P.S. Barahiya Distt- Lakhisarai.

.... Petitioner/s

Versus

1. The State of Bihar.
2. Aradhna Kumari, wife of Pawan Kumar, D/o Shyamdeo Prasad, Resident
of Mokamaghat, P.S. Mokama, Distt- Patna.

.... Opposite Party/s
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with

Criminal Miscellaneous No.47580 of 2014

Arising Out of PS.Case No. -30 Year- 2013 Thana -PATNA COMPLAINT CASE District- PATNA
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1. Shambhu Mandal @ Shambhu Saran Mandal
2. Bachchan Mandal, Both sons of Late Ram Saran Mandal
3. Indrasan Devi wife of Shambhu Mandal
4. Pratima Devi wife of Bachchan Mandal All Resident of village- Alinagar,
P.S. Surajgarha District- Lakhisarai

.... Petitioner/s

Versus

1. The State of Bihar
2. Aradhna Devi, wife of Pawan Kumar, Daughter of Shyamdeo Prasad,
Resident of Mokamaghat, P.S. Mokama, District- Patna

.... Opposite Party/s
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Appearance :

(In Cr.Misc. No.37268 of 2015)

For the Petitioner/s : Mr. Narsingh Tanti

For the Opposite Party/s : Mr. Dr.M.K.Gautam(App)

(In Cr.Misc. No.47580 of 2014)

For the Petitioner/s : Mr. Narsingh Tanti

For the Opposite Party/s : Mr. Ram Anurag Singh (App)

Mr. Mukesh Kumar, Advocate
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CORAM: HONOURABLE JUSTICE SMT. ANJANA PRAKASH
ORAL ORDER

2 01-10-2015 Learned counsel for the petitioner seeks permission to

withdraw the application of petitioner No. 1 in Cr. 37268/15.

Cr. Misc. No. 37268 of 2015 is permitted to be withdrawn

in so far as petitioner no. 1 is concerned to avail his other remedy

in accordance with law.

The rest of the petitioners who are in-laws seek quashing of the order of non-discharge dated 26.03.2015/14.11.2014 passed by the learned Sub-Divisional Judicial Magistrate, Barh, Patna in Complaint Case No. 30C of 2013.

The case of the complainant is that she had married Pawan Kumar who was posted in Srinagar at the point of time i.e. 19.06.2010. After some months, the accused persons started torturing her by various ways so that she may commit suicide. When the husband of the complainant came back home on 10.01.2013, he categorically told her that in case her parents fail to provide an Alto Car, he would re-marry. When she protested she was assaulted, her jewellery were snatched and she was ousted from her matrimonial home.

It has been submitted on behalf of the petitioners that fact of the matter is that the relationship between the husband and the wife deteriorated to the extent that the husband filed Divorce Case No. 18 of 2012 on 30.04.2012. It is subsequently that the present compliant case was filed on 16.01.2013, in order to create a defence. So far as the petitioners are concerned, there are no specific overt acts alleged against them and the main allegations seems to be against the husband, who had threatened her with a second marriage.

On the other hand, learned counsel for the complainant submits that in the divorce suit, a direction has been given by the Principal Judge, Family Court, Lakhisarai to make payments under Section 24 of the Hindu Marriage Act but, he is not complying with the said order. The further submission is that the husband has already re-married.

Considering that so far as the petitioners are concerned, there does not appears to be any specific incidence of torture and hence this application is allowed.

The order of non-discharge dated 26.03.2015/14.11.2014 passed by the Sub-Divisional Judicial Magistrate, Barh, Patna is hereby set aside so far as petitioners are concerned except Petitioner No. 1 of Cr. misc. No. 37268 of 2105.

In case the Principal Judge, Family Court, Lakhisarai finds that the husband is not complying with the order in regard to payment of maintenance to his wife, he shall communicate this fact to the Magistrate concerned so that he can initiate a proceeding for cancellation of his bail on such ground.

(Anjana Prakash, J)

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