

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.7355 of 2010

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

- =====
1. Nitu Devi D/o Sri Jugal Yadav @ Jai Prakash Yadav.
 2. Jugal Yadav @ Jai Prakash Yadav son of late Buchchan Yadav.

.... Petitioner/s

Versus

1. State of Bihar.
2. Arbind Prasad Yadav son of Bishwanath Prasad Yadav.

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Meena Yadav, Adv.
Mr. Ajay Kumar, Adv.

For the Opposite Party/s : Mr.

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CORAM: HONOURABLE JUSTICE SMT. ANJANA PRAKASH

ORAL JUDGMENT

Date: 14-09-2015

The petitioners seek quashing of the order dated 11.08.2009 passed by the Judicial Magistrate II Class-cum-Additional Munsif, Katihar in Complaint Case No. 1135 of 2009.

The case of the complainant is that he was married to the Petitioner no. 1 and daughter of the Petitioner no. 2 who went to the matrimonial home but later returned having committed theft of his house hold articles.

It has been submitted on behalf of the petitioners that the Petitioner no. 1 was no doubt wife of the complainant and earlier she had instituted a complaint case bearing Complaint Case No. 354 C of 2009 on 26.03.2009 and one month later the present complaint was filed by the husband so as to create a defence. In light of such

background, evidently, the present complaint is malicious and deserves to be set aside.

On the other hand complainant submits that since the ingredient of criminal offence is made out they should be put on trial.

Having considered the facts of the case, I would be inclined to hold that continuance of the present complaint would be gross abuse of the process of the Court. Hence the application is allowed and the order dated 11.08.2009 passed by the Judicial Magistrate II Class, cum-Additional Munsif, Katihar in Complaint Case No. 1135 of 2009 is hereby set aside.

(Anjana Prakash, J)

Prakash/-

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