

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.17651 of 2013

Arising Out of PS.Case No. -539 Year- 2010 Thana -JEHANABAD COMPLAINT CASE District-
JEHANABAD

- =====
1. Amarendra Kumar, S/O Shivpurjan Sharma,
 2. Geeta Devi @ Geeta Kumari, W/O Amarendra Kumar, resident of village- Seema, Police Station- Pouthu, District- Aurangabad, at present working as Assistant Manager, Saru Bera Colliery (Kujgajju Area), Central Coalfield Limited, C/O K. Jha, Shastri Nagar, Nayisarai, Ramgarh Cantt., Police Station- Ramgarh, District- Hazaribagh (Jharkhand)

.... Petitioner/s

Versus

1. The State of Bihar
2. Reena Kumari, D/O Shiv Shanker Prasad Singh, W/O Dharmendra Kumar, resident of village- Ghoshi, Police Station- Ghoshi, District- Jehanabad, at present resident of Purani Bijali Colony, Untha Station, Jehanabad

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. M. M. Katreyar, Advocate

For the Opposite Party/s : Mr. Mayanand Jha, APP

Mr. Ratanakar Jha, Advocate

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CORAM: HONOURABLE JUSTICE SMT. ANJANA PRAKASH

ORAL JUDGMENT

Date: 03-08-2015

The Petitioners, who are sister-in-law (Nanad) and her husband (Nandosi), seek quashing of the order dated 29.03.2011 passed by the Sessions Judge, Jehanabad, in Cr. Revision No.90 of 2010, setting aside the order dated 30.09.2010 passed by the Sub-Divisional Judicial Magistrate, Jehanabad, in Complaint Case No.539 of 2010 by which he had not summoned the Petitioners to face trial, without hearing them.

It is implicit in the Code of Criminal Procedure that no person can be proceeded against without giving him an opportunity

to be heard. Hence, the revisional order is bad in law. However, in exercise of powers under Section 482 Cr. P.C., I proceed to hear the matter on merits.

The case of the Complainant is that she was married to the brother of the Petitioner No.2 on 06.05.2007 on which occasion huge amount of money was spent. When she went to her matrimonial home, she started studying in college and was living happily. However, on account of interference of the accused persons, some difference arose between the spouses and they started demanding additional dowry and on 30.04.2010 she was drove out from the matrimonial home. Later on, she learnt that her husband has re-married during her life time. When she went to ask for explanation, she was abused and sought to be assaulted.

It has been submitted on behalf of the Petitioners that on going through the Complaint Petition it appears to be absurd that the Petitioner No.2 was involved in any manner much less because they used to reside in Jharkhand, whereas, matrimonial home of the Complainant was in Aurangabad. Moreover, from the narrative of the Complaint Petition, main grouse of the Complainant is against the husband, who has remarried.

On the other hand, counsel for the Complainant submits that since the Petitioners have not come for quashing of the

proceeding against them this Court should desist itself from passing any order on merit. Further submission is that since the Petitioners are the family members and have been charged with allegation of disturbing matrimonial relationship, they should be put on trial.

Having gone through the Complaint Petition, gist of which has been reproduced above, I would be inclined to hold that so far the Petitioners are concerned there does not appear any material and their trial would be abuse of process of law.

Hence, the order dated 29.03.2011 passed by the Sessions Judge, Jehanabad, in Cr. Revision No.90 of 2010 is hereby set aside the order dated 30.09.2010 passed by the Sub-Divisional Judicial Magistrate, Jehanabad, in Complaint Case No.539 of 2010 is hereby affirmed in so far as Petitioners are concerned.

The application stands allowed.

(Anjana Prakash, J)

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