

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.28338 of 2013

Arising Out of PS.Case No. -238 Year- 2009 Thana -ARA MUFFSIL District- BHOJPUR

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1. Ramesh Prasad S/O Late Badri Narayan Swarnkar @ Badri Prasad Resident Of Mohalla Bakerganj, P.S. Pirbahore, District Patna.
2. Rani Devi @ Bijali Devi W/O Ramesh Prasad, Resident Of Mohalla Bakerganj, P.S. Pirbahore, District Patna.

.... Petitioner/s

Versus

1. The State Of Bihar
2. Puspa Devi wife of late Munna Prasad, resident of Mohalla Brahman tola (Mikino), P.S. Ara Town, Distt. Bhojpur

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Bijendra Pd. Sinha, Advocate
For the Opposite Party/s : Mr. Nand Kumar, APP
For Opposite Party No.2 : Mr. Ravindra Kumar, Advocate

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CORAM: HONOURABLE JUSTICE SMT. ANJANA PRAKASH

ORAL JUDGMENT

Date: 29-06-2015

By order dated 22.7.2014, the application against the Petitioner No.1 has already been dismissed as having become infructuous.

The Petitioner No.2, who is the sister-in-law of the Opposite Party No.2, seeks quashing of the order of cognizance dated 9.5.2011 passed by the Chief Judicial Magistrate, Arrah in Arrah Town P.S. case No.238 of 2009 (Trial No.3346 of 2010).

The case of the Informant is that after the death of her husband she and her children were residing in the matrimonial home but the accused persons started mistreating her and later ousted her from the matrimonial home.

It has been submitted on behalf of the Petitioner No.2

that she is the sister-in-law i.e. Gotani of the Opposite Party No.2 and the allegations do not appear probable.

Fact of the matter is that there was a dispute over partition of the ancestral land which has led to institution of the present case. Presently the Petitioner No.1, who was the brother-in-law and to some extent responsible for the affairs of the family, is no more in which situation the Petitioner No.2 being a widow, is not in a position to resolve the dispute.

On the other hand, the Counsel for the Informant submits that since she is a widow and had been tortured by her in-laws and ousted from the ancestral property, the Petitioner No.2 should be tried.

Having considered the nature of allegations as also the relationship between the parties, in my opinion, the prosecution of the Petitioner No.2 would be a gross abuse of the process of the Court and deserves to be set aside.

Hence, the application is allowed so far as the Petitioner No.2 is concerned and the order of cognizance dated 9.5.2011 passed by the Chief Judicial Magistrate, Arrah in Arrah Town P.S. case No.238 of 2009 (Trial No.3346 of 2010) is hereby set aside.

(Anjana Prakash, J)

Narendra/-

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