

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No. 17733 of 2013

Arising Out of PS.Case No. -233 Year- 2009 Thana -DUMRA District- SITAMARHI

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1. Manoj Rai @ Manoj Kumar Rai Son of Raghunath Rai Resident of Village- Gaura, P.S.- Nanpur, District- Sitamarhi.
 2. Raghunath Rai, Son of Late Lattar Rai, Resident of Village- Gaura, P.S.- Nanpur, District- Sitamarhi.
 3. Radheshyam Rai, Son of Late Lattar Rai Resident of Village- Gaura, P.S.- Nanpur, District- Sitamarhi.
 4. Ramkali Devi, Wife of Raghunath Rai Resident of Village- Gaura, P.S.- Nanpur, District- Sitamarhi.

.... Petitioner/s

Versus

1. The State of Bihar
2. Madan Rai, Son of Maheshwar Rai, resident of Village- Kumhra Vishanpur, Tole- Hariharpur, P.S. Dumra, District- Sitamarhi.

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr.

For the Opposite Party/s : Mr.

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CORAM: HONOURABLE MR. JUSTICE AHSANUDDIN
AMANULLAH

ORAL ORDER

4 02-07-2015 Heard learned counsel for the petitioners and learned A.P.P. for the State.

Despite notice having been issued to opposite party no. 2 and the same having been validly served, nobody appears on his behalf when the case is taken up.

The present application has been filed under Section 482 of the Code of Criminal Procedure, 1973 seeking quashing of the order dated 06.02.2012 passed by the learned S.D.J.M., Sitamarhi in G.R. No. 1893 of 2009, T.R. No. 1841 of 2013 arising out of Dumra P.S. Case No. 233 of 2009 by which cognizance has been taken against the petitioners under Sections 498, 498A and 406 of the Indian Penal Code.



Learned counsel for the petitioners submits that initially complaint case was filed on 19.02.2009 which was sent to the police resulting in institution of the F.I.R. on 11.07.2009. It is submitted that subsequent to the said case there was a Panchayati held on 02.09.2009 which goes to show that all the articles given by the opposite party no. 2 at the time of marriage had been returned to him. Learned counsel has also referred to Annexure-2 series which goes to show that the daughter of the opposite party no. 2 has also remarried on 07.06.2009.

In view of the fact that despite having received notice, the opposite party no. 2 has chosen not to appear, the Court can only presume that he does not want to oppose the application.

In view of the aforesaid and after going through the materials on record and taking into account the fact that the articles which were given at the time of marriage by opposite party no. 2 having been returned and the daughter has also remarried, this Court finds that the pendency of the criminal case is not in the interest of justice.

Accordingly, the application stands allowed. The order impugned dated 06.02.2012 passed by the Court below in G.R. No. 1893 of 2009/T.R. No. 1841 of 2013 arising out of Dumra P.S. Case No. 233 of 2009 as far as it relates to the petitioners, stands quashed.

The Court would like to indicate that the order has been passed on the basis of the presumption that the materials brought on record are genuine and if it is found that the same are incorrect, severe consequences shall follow.

(Ahsanuddin Amanullah, J.)

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