

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.23796 of 2014

Arising Out of PS.Case No. -483 Year- 2004 Thana -KHAZANIHAT District- PURNIA

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1. Bhupendra Bishwas, S/o Jagdish Bishwas,
 2. Jagdish Bishwas, S/o - Late Hari Bishwas,
 3. Kaushalya Bishwas, W/o Jagdish Bishwas, all resident of village - Ramnagar, P.S. - K. Hat (Maranga), Dist. - Purnia, presently residing at Bhawishyanidhi Enclave, S.J.D.A. Complex, P.S. - Kotwali, District - Jalpaiguri (West-Bengal),
 4. Babita Bishwas, w/o - Rajendra Bishwas, resident of village - Ramnagar, P.S. - K. Hat (Maranga), Dist.. - Purinia, presently residing at Tridev Garden, Block B, Flat No. 1-1, P.O. - Krishnapur, (Milan Bazar), P.S. - Baguati, Dist. - 24, North Pargona (West Bengal).

.... Petitioner/s

Versus

1. The State of Bihar
2. Kanaklata Devi, W/o - Nipendra Bishws, D/o Dr. Sudhir Kumar Mandal, resident of village - Thika Patti, P.S. - Thika Patti, Dist. - Purnia.

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Sanjeev Kumar, Advocate

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

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CORAM: HONOURABLE JUSTICE SMT. ANJANA PRAKASH

ORAL JUDGMENT

Date: 10-09-2015

No one appears on behalf of the Opposite Party No.2.

It has been submitted that the Petitioners had sought consent of the counsel for the Opposite Party No.2 and mentioned the case for out of turn hearing.

The Petitioners seek quashing of the order dated 29.04.2014 passed by the Sessions Judge, Purnea, in Cr. Revision No.138 of 2014 by which he has affirmed the order dated 08.01.2014 by which the Judicial Magistrate, 1st class, Purnea, had

summoned the Petitioners to face trial under Section 319 Cr. P.C. in G.R.No.2344 of 2004 arising out of K. Hat (Maranga) P.S. Case No.483 of 2004.

Initial case was that Petitioners, who were, parents-in-law, brother-in-law and sister-in-law of the Informant, were named in the First Information Report as one of the persons who demanded dowry but subsequently on investigation the case was found to be false as against them. Such Final Report was accepted but later on during trial once again the witnesses named the Petitioners and hence they were summoned.

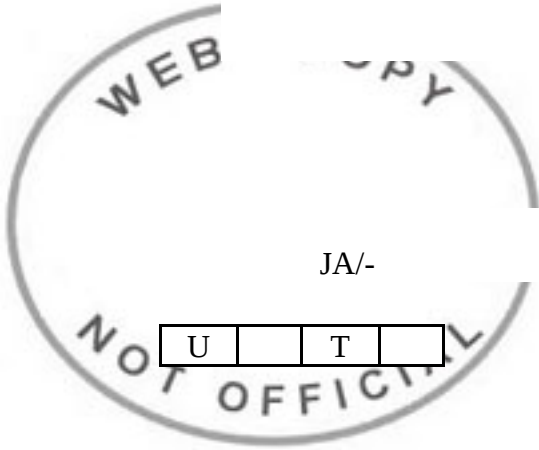
It has been submitted that even though there may be general allegation against the Petitioners being family members of the husband of the Informant having demanded dowry but since the provision of Section 319 Cr. P.C. should be used very sparingly, such an exercise should not have been undertaken by the Magistrate.

I am inclined to agree with the submission of the Petitioners in the facts of the case.

Hence, the order dated 29.04.2014 passed by the Sessions Judge, Purnea, in Cr. Revision No.138 of 2014 as also the order dated 08.01.2014 passed by the Judicial Magistrate, 1st class, Purnea, in G.R.No.2344 of 2004 arising out of K. Hat (Maranga)

P.S. Case No.483 of 2004 is hereby set aside.

The application stands **allowed**.



(Anjana Prakash, J)