

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No. 43626 of 2014

Arising Out of PS.Case No. -1615 Year- 2012 Thana -PATNA COMPLAINT CASE District-
PATNA

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1. Nilu Banik Son of Late Nital Chandar Banik Care of Shri P. Banik TCO Naya Bazar, P.O.-Silligur, District-Darjeeling, West Bengal.
2. Ganga Banik Daughter of Lane Nitai Chandra Banik,
3. Gopal Banik
4. Tarok Bani Both sons of Late Nitai Chandra Banik All Residents of 107, Makal Tala Lane, Bhandran Kali, P.S.-Uttar Para, District-Hoohgly, West Bengal
..... Petitioner/s

Versus

1. The State of Bihar
2. Aparna Banik Dutta Wife of Shankar Banik, Daughter of Shri Hari Das Dutta, Resident of Mohalla-Ram Lakhan Path (Santosh Kunj) Near Laxmi Market, 3rd Floor Hazam Toli, P.S.-Jakkanpur, Town and District-Patna.
..... 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 JUSTICE SMT. ANJANA PRAKASH

ORAL JUDGMENT

Date: 04-11-2015

The spouses are physically present in Court and it does not appear that there is any scope of settlement.

Be that as it may, the husband shall regularly deposit the amount, failing which the Court below shall take stringent steps for ensuring compliance of its order.

So far as the petitioners are concerned, they are sister-in-law and brother-in-law of the complainant who seek quashing of the order of cognizance dated 01.02.2013 passed by the Judicial Magistrate 1st Class, Patna in Complaint Case No. 1615 C of 2012.

The case of the complainant is that she was married to



Shankar Banik on 05.03.2007 on which occasion large number of gifts were given to the in-laws. But later the husband fell in love with other lady and started neglecting and torturing her. It is further alleged that the husband along with others beat her and later she was ousted from the matrimonial home. She then filed complaint case bearing Complaint Case No. 1014C of 2009 which was quashed by the Hon'ble High Court in Cr. Misc. No. 2257 of 2010 against which she moved the Hon'ble Supreme court in SLP (Cri) No. 25552 of 2011 which was dismissed with liberty to file a fresh complaint in accordance with law. She then filed the present complaint which according to the petitioners contains only vague allegation of torture as the earlier complaint with regard to same allegation has been dismissed by the Hon'ble High Court on the ground of territorial jurisdiction as the petitioners no. 1 is living in Siliguri, West Bengal.

The counsel for the petitioners submits that as is evident from the complaint petition the main grouse was against the husband who neglected the informant. The petitioners who were living separately had no role to play in affairs of the husband and the wife.

On the other hand complaint submits that since the petitioners were involved in promoting the illicit relationship of the husband with other lady, they should be put on trial.

Having considered that the main complaint appears to be

against the husband I would be inclined to hold that the present proceeding as against the petitioners deserves to be set aside. Hence the application stands allowed and the order of cognizance dated 01.02.2013 passed by the Judicial Magistrate 1st Class, in Complaint Case No. 1615C of 2012, is hereby set aside so far as the petitioners are concerned.

(Anjana Prakash, J)

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