

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.27197 of 2012

Arising Out of PS.Case No. -138 Year- 2010 Thana Charpokhari District- BHOJPUR

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1. Rahul Rai @ Rahul, S/O Sri Rama Shankar Ray, permanent resident of village - Gaighat, P.O.- Asha Padri, P.S.- Simari, District- Buxar, Presently Residing At Air Force Record Office, Service Married Quarter No.- B-95, Subrato Park, P.S.- Delhi Cantt., New Delhi-10
 2. Ravi Shankar Ray, S/O Late Radhe Shyam Ray, Resident Of Village- Gaighat, P.O.- Asha Padri, P.S.- Simari, District- Buxar, Presently Residing In The Hostel At KiiT University, Bhubneshwar (Orissa)

.... Petitioner/s

Versus

1. The State Of Bihar
2. Anju Bhatt, D/O Sri Dharamdev Bhatt, Resident Of Village And P.O.- Balbandh, P.S.- Charpokhari, District- Bhojpur At Ara

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Sumant Singh, Adv.
Mr. Arun Kumar, Adv.

For the State : Mr. Mayanand Jha, A.P.P.

For the Opposite Party No. 2 : Mr. Sarendra Kr. Verma, Adv.

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CORAM: HONOURABLE JUSTICE SMT. ANJANA PRAKASH

ORAL JUDGMENT

Date: 30-03-2015

Supplementary affidavit filed today, be kept on the record.

Heard learned counsel for the Petitioners and the State.

The Petitioners who are nephew and the brother-in-law of the husband of the Opposite Party No. 2 seek quashing of the order of cognizance dated 22.9.2011 passed by the Chief Judicial Magistrate, Bhojpur at Ara, in Charpokhari P.S. Case No. 138 of 2010.

The case of the Informant is that she was married on 22.11.2008 with Binay Shankar on which occasion a large number of

gifts were given to her in-laws. When she came to live in her matrimonial home, the accused persons started to demand dowry and tortured her in various ways. Subsequently, she was driven out of the house on 19.7.2010 along with her little child.

It has been submitted on behalf of the Petitioners that accusation so far as the Petitioners are concerned is completely unwarranted. As stated in the First Information Report, the husband of the Opposite Party No. 2 was in Government service on account of which the Opposite Party No. 2 used to live with him at his place of posting where there was no possibility of the Petitioners interfering with their married lives since the Petitioners did not reside with them.

A supplementary affidavit has also been filed saying that the husband had filed a divorce case on 24.1.2010 before institution of the present First Information Report. The husband had sought divorce on account of mental torture meted out by the Opposite Party No. 2. It is under these circumstances, the Petitioners submits that since these documents indicate that there was some incompatibility issue between the spouses which has led to the institution of the present First Information Report should be exonerated from trial.

On the other hand, the counsel for the Informant submits that the daughter is now five years of age and often talks to her father and, therefore, an effort should be made to settle the dispute finally between the spouses. The Informant has also filed a suit for

restitution of conjugal rights and she wants to live with her husband.

Considering that the Petitioners are merely family members of the husband of the Informant who was himself in Government service having full control of his life, there is no likelihood that the Petitioners would be in a position to influence the life of the spouses.

In view of the aforesaid facts mentioned above, in my opinion, the Prosecution of the Petitioners is unwarranted and, hence, they should not be put on trial.

Hence, the application is allowed of the proceedings including the order of cognizance dated 22.9.2011 passed by the Chief Judicial Magistrate, Bhojpur at Ara, in Charpokhari P.S. Case No. 138 of 2010 so far as the Petitioners are concerned is hereby set aside.

However, the quashment of the present Proceeding shall have no bearing on the case of the others and the Court below shall direct the spouses to the Mediation Center for a settlement.

(Anjana Prakash, J)

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