

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.45674 of 2012

Arising Out of C.R. No.-35(C) Year- 2011 District- PATNA

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1. Satyanarayan Goswami, son of late Chaman Goswami, resident of village Sihodih, P.S. Giridih, P.O. Sirasia, Distt. Giridih, State of Jharkhand.
 2. Saroj Devi @ Saroj Toppo, daughter of late Barabas Toppo, resident of village Shodih, P.S. Giridih, P.O. Sirasia, Distt. Giridih, State of Jharkhand.

.... Petitioner/s

Versus

1. The State of Bihar
2. Jyoti Devi, daughter of Mahendra Goswami, wife of Kamdev Goswami, resident of Sihodih, P.S. Giridih, P.O. Sirasia, Distt. Giridih, State of Jharkhand, at present Mokama, P.S. & P.O. Mokama, Distt. Patna.

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Amit Kr. Singh, Adv.

Mr. Satish Kr. Giri, Adv.

For the State : Mr. Parmanand Kr., A.P.P.

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CORAM: HONOURABLE JUSTICE SMT. ANJANA PRAKASH

ORAL JUDGMENT

Date: 08-05-2015

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

The Petitioner seeks quashing of the order of cognizance dated 3.8.2011 passed by the Judicial Magistrate, 1st Class, Barh, in connection with C.R. No. 35(C) of 2011.

The case of the Complainant is that she was married to Kamdev Goswami, son of the Petitioner No. 1 on 3.7.2006 according to Hindu rites, on which occasion, ornaments and cash were given by the father of the Complainant. However, she was tortured for ends of dowry and was ousted from the matrimonial home along with her

husband. On the date of occurrence, the accused entered her room and assaulted her and also committed theft of her personal belongings.

It has been submitted that fact of the matter is that the Petitioner No. 2 is a land lady of the house in which the Complainant and her family members were tenants. For about two years, things were fine and Complainant and her husband gave timely rent. Later on, they started defaulting, so the Petitioners sought to prosecute them and filed a Complaint Case before the Chief Judicial Magistrate, Giridih. It is in order to create a defence that the present Complaint was filed with trumped up charges and relationship.

Having gone through background facts of the case, I would be inclined to hold that the present Prosecution is malicious and deserves to be set aside.

Hence, the application is allowed and the entire Proceeding including the order of cognizance dated 3.8.2011 passed by the Judicial Magistrate, 1st Class, Barh, in connection with C.R. No. 35(C) of 2011, is hereby set aside.

(Anjana Prakash, J)

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