

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No. 37090 of 2011

Arising out of P.S. Case No. -0 Year- null Thana -null
District- MADHUBANI

- =====
1. Md. Mohiuddin S/o Late Haji Rahim Baksh R/o Vill.- Laikuria, P.S.- Sri Nagar and District- Madhepura.
 2. Bibi Shakila Khatoon W/o Md. Mohiuddin R/o Vill.- Laikuria, P.S.- Sri Nagar and District- Madhepura.
 3. Md. Ejaj @ Tunna S/o Md. Mohiuddin R/o Vill.- Laikuria, P.S.- Sri Nagar and District- Madhepura.

.... Petitioner/s

Versus

1. The State of Bihar.
2. Bibi Kulsum, D/o Late Wali Mohammad, Resident of Village- Lalkuriya, P.S.-Sri Nagar and District-Madhepura.

.... Opposite Party/s

=====

Appearance :

For the Petitioner/s : Md Abu Haidar, Adv.

For the Opposite Party/s: Mr. J. Upadhyay, APP.

=====

CORAM: HONOURABLE JUSTICE SMT. ANJANA PRAKASH

ORAL JUDGMENT

Date: 23-06-2015

The Petitioners who are the husband and the in-laws seek quashing of entire proceeding including the order of cognizance dated 23.06.2010 passed by the Sub-divisional Judicial Magistrate, Madhepura in Complaint Case No. 62 of 2010.

The case of the Complainant is that she was married to the Petitioner No. 1 about 28-29 years ago. Out of the wedlock three daughters and one son were born. However, the Complainant was tortured for ends of dowry on account of which she filed a case. When the Petitioner No. 1 was remanded in jail custody he compromised the matter with the Complainant. However, since the

behaviour of the accused persons remained the same the Complainant filed the present Complaint.

It has been submitted on behalf of the Petitioners that it is impossible to believe that a person would be tortured for ends of dowry despite lapse of 28/29 years of marriage. There is no allegation which would justify prosecuting the Petitioners under Section 498A IPC.

On the other hand, Counsel for the Complainant submits that since she has been ousted by the husband who has remarried and, hence, Petitioners should be put on trial.

Having considered the rival submissions and the nature of allegations in the Complaint Petition, I am inclined to hold that no offence under Section 498A IPC is made out.

Hence, the entire proceeding as against all the accused persons including the order of cognizance dated 23.06.2010 passed by the Sub-divisional Judicial Magistrate, Madhepura in Complaint Case No. 62 of 2010 is, hereby, set aside.

The application stands allowed.

(Anjana Prakash, J.)

Vikash/-

U		T	
---	--	---	--