

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No. 36758 of 2011

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

Kapildeo Mishra Son of Late Ram Chandra Mishra Resident of
Village-Kechua, Police Station-Karakat (Gorari) In The District of
Rohtas, Presently Residing In Mohalla-Anand Nagar, Bikramganj, Ps-
Bikramganj Distt-Rohtas.

.... Petitioner/s

Versus

1. The State of Bihar.
2. Sumita Devi Wife of Sri Jitendra Kumar Mishra Daughter of Late
Devendra Nath Pathak Resident of Village-Manjhwari, Police
Station-Simri.

.... Opposite Party/s

with

Criminal Miscellaneous No. 19937 of 2011

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

1. Upendra Kumar Mishra S/o Kapildeo Mishra R/o Mohalla
Anand Nagar, Bikramganj, P.S. Bikdra Mganj, Distt. Rohtas.
2. Gomati Devi W/o Kapildeo Mishra R/o Mohalla Anand Nagar,
Bikramganj, P.S. Bikdra Mganj, Distt. Rohtas.

.... Petitioner/s

Versus

1. The State of Bihar.
2. Sumita Devi W/o Jitendra Kumar Mishra, D/o Late Devendra
Nathpathak R/o Vill. Majhwari, P.S. Simri, Distt. Buxar.

.... Opposite Party/s

Appearance :

(In Cr.Misc. No. 36758 of 2011)

For the Petitioner/s : Mr. Akhileshwar Prasad Singh, Sr. Adv.

For the Opposite Party/s : Mr. Ashok Kumar, APP.

(In Cr.Misc. No. 19937 of 2011)

For the Petitioner/s : Mr. Akhileshwar Prasad Singh, Sr. Adv.

For the Opposite Party/s: Mr. Ashok Kumar, APP.

CORAM: HONOURABLE JUSTICE SMT. ANJANA PRAKASH

ORAL JUDGMENT

Date: 03-07-2015

The Petitioners seek quashing of the order dated

25.06.2010 passed by the Sessions Judge, Buxar in Cr. Rev. No. 72 of 2011 by which it has confirmed the order of non-discharge dated 13.04.2011 passed by the Sub-divisional Judicial Magistrate, Buxar in Complaint Case No. 549C of 2005 (Tr. No. 531 of 2011).

The case of the Complainant is that she was married to one Jitendra Mishra about ten years ago but since her husband was not working she was tortured. When she protested demands were made that she bring house-hold goods from her own maternal home. The accused persons had also taken a sum of Rs. 1,00,000/- from the brother of the Complainant which they did not return. The husband was also ousted from the matrimonial home whereafter he was missing for the last fifteen days. Everytime demands were made by the brother for returning the money the accused persons assaulted and tortured her in various ways. They then ousted her from the matrimonial home whereafter she was living with her children at her maternal home.

It has been submitted on behalf of the Petitioners that it is impossible to believe that a person who had married about ten years ago and had given birth to two children would be tortured for so many years. It appears that there were some disputes over property on account of which the present Complaint has been



instituted. In her statement before the Court she submitted that her husband was a drunkard and did not work.

On the other hand, Counsel for the Complainant submits that she is ready to compromise the matter and she wants to live in the matrimonial home. This prayer of the Complainant cannot be allowed in the present proceeding and she may seek remedy under the Domestic Violence Act.

Having considered the nature of allegations and finding that no criminal offence is made out, the entire proceeding as against all the accused persons including the order dated 25.06.2010 passed by the Sessions Judge, Buxar in Cr. Rev. No. 72 of 2011 by which it has confirmed the order of non-discharge dated 13.04.2011 passed by the Sub-divisional Judicial Magistrate, Buxar in Complaint Case No. 549C of 2005 (Tr. No. 531 of 2011) is, hereby, set aside.

The Applications stand allowed.

However, this order shall not prejudice any party in any manner.

Vikash/-

(Anjana Prakash, J.)

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