

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No. 14640 of 2015

Arising Out of PS.Case No. -3 Year- 2013 Thana -Madhepur District- Madhubani

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1. Deepak Kumar Singh @ Dhiraj Singh Son of Sri Yogendra Prasad Singh,
 2. Yogendra Prasad Singh, Son of Sri Laxman Rai,
 3. Hari Kant Rai @ Hare Kant Rai, Son of Late Mahanti Rai,
 4. Kavita Devi, Wife of Sri Harikant Rai,
 5. Pankaj Kumar Singh, Son of Yogendra Prasad Singh,
 6. Ram Sagar Prasad Singh @ Ram Sagar Singh @ Raju Son of Yogendra Prasad Singh,
 7. Neelam Devi, Wife of Yogendra Prasad Singh, All are Resident of Mohalla - Ashok Nagar (Pokhariya), P.S. - Begusarai, District - Begusarai.

.... Petitioner/s

Versus

1. The State of Bihar.
2. Priti Kumari @ Priti Singh, Wife of Deepak Kumar Singh, Daughter of Sri Vimar Kumar Rai, presently residing at Village - R.S. Jhanjhar, P.S. - Madhepur, District - Madhubani.

.... 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 Petitioner no. 1 is physically present in Court whereas the opposite party no. 2 is absent.

The petitioner no. 1 states he is in a position to pay Rs. 2 lacs by way of one time settlement. On the other hand the informant submits that he has instructions from his client that she is adamant for living with the husband and is not ready for one time settlement.

Be that as it may this Court proceeds to hear the matter on merits.

The petitioners seek quashing of the order of cognizance dated 02.12.2013 passed in Madhepur P.S. Case No. 03 of 2013 by the Sub-Divisional Judicial Magistrate, Jhanjharpur, Madhubani.

The case of the informant is that she was married to the Petitioner no. 1 in 2006 where after she started living in the matrimonial home. However, the in-laws started torturing her physically and mentally and finally she was ousted from the matrimonial home. She then learnt that her husband performed second marriage.

It has been submitted on behalf of the petitioners that none of the allegations are true and at one time, on account of intervention of common well wishers, the matter was compromised. A compromise petition was filed as is evident from Annexure 2. Further submission is that it is impossible to believe that a person would be tortured for ends of dowry after seven years of mirage and no complaint would be given in the meanwhile. Further submission is that in fact the informant had gone to her matrimonial home way back in the year 2009 because the husband refused to live with her parents. It is after lapse of four years she filed the present first information report with trumped up charges.

On the other hand counsel for the informant submits that even though the duration of the marriage was long but she went to the

maternal home on the request of the petitioners and she did not institute a case earlier because she wanted the matter sorted out.

Having gone through the first information report I find that even though the narrative is long but it does not indicate any instance of torture which would make out a case under Section 498 IPC. No doubt it revels incompatibility but the same is not punishable under the Indian Penal Code. In view of such, the application is allowed and the entire proceeding including the order of cognizance dated 02.12.2013 passed in Madhepur P.S. Case No. 03 of 2013 by the Sub-Divisional Judicial Magistrate, Jhanjharpur, Madhubani, is hereby set aside.

(Anjana Prakash, J)

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