

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.37992 of 2008

Arising Out of PS.Case No. -0 Year- null Thana -null District- BEGUSARAI

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1. Karmendra Nath, son of Kedar Nath Sah,
 2. Kedar Nath Sah, son of Thakur Prasad,
 3. Veena Devi, w/o Kedar Nath Sah, &
 4. Dharmendra Nath Gupta @ Jittu, son of Kedar Nath Sah, all resident of Mohalla- Gurhatta, Mojahidpur, Bousi Road, P.S.-Mojahidpur, District- Bhagalpur.

.... Petitioner/s

Versus

1. The State of Bihar
2. Gunpat Sao, son of late Ram Kishun Sah, resident of village-Bishunpur, Nolakha Road, P.S.-Begusarai, District- Begusarai.

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Jai Prakash Singh, Advocate
Mr. Madanjeet Kumar, Advocate

For the Opposite Party/s : Mr. M. N. Jha, APP
Mr. Manoj Kumar Singh, Advocate

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CORAM: HONOURABLE JUSTICE SMT. ANJANA PRAKASH
ORAL JUDGMENT

Date: 31-07-2015

1. The Petitioners seek quashing of the order dated 31.07.2008 passed in Cr. Revision No.260 of 2007 by the Sessions Judge, Begusarai, by which he has affirmed the order dated 30.08.2007 passed by the Sub-Divisional Judicial Magistrate, Begusarai, in Complaint Case No.2430-C of 2006.

2. The case of the Complainant is that his daughter was married to the Petitioner No.1 in the year 1995 according to Hindu rites on which occasion gifts were given to the in-laws. Thereafter, she started staying in Varanasi in the matrimonial home but the accused persons started torturing her for ends of dowry. In



the meanwhile, his daughter became pregnant, so, he asked for her *Bidagari* after which she came to the maternal home and gave birth to a son. Then she once again went to the matrimonial home at Bhagalpur and despite some additional gifts once again she was tortured for ends of dowry. It is under these circumstances that the Complaint was instituted.

3. Submission of the Petitioners is that it is impossible to believe that a person, who is married in the year 1995 would be tortured till 2006 i.e. more than sixteen years for ends of dowry. Further submission is that the Complainant's daughter was living in her maternal home since 03.03.1998 and hence the Petitioner No.1 filed a suit for restitution under Section 9 of Hindu Marriage Act vide Matrimonial Case No.41 of 2005. When she did not return, the Petitioner No.1 filed Divorce suit on 09.11.2006 vide Divorce Case No.94 of 2006. It is only after hearing about the Divorce Case that the present case was instituted to make a defence. In the meanwhile, the Divorce suit proceeded and now they have been divorced as is evident from Annexure-7 to the Supplementary Affidavit.

4. On the other hand, counsel for the Complainant submits that wife of the Petitioner No.1 has filed an appeal against the judgment and decree passed in the Divorce Suit and hence, the Complaint Petition should proceed.

5. Having gone through the facts, I would be inclined to hold that the Complaint Petition is unreliable and deserves to be set aside.

6. Hence, the order dated 30.08.2007 passed by the Sub-Divisional Judicial Magistrate, Begusarai, in Complaint Case No.2430-C of 2006 as also the order dated 31.07.2008 passed by the Sessions Judge, Begusarai in Cr. Revision No.260 of 2007, are hereby set aside.

7. The application stands allowed.

(Anjana Prakash, J)

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