

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No. 16622 of 2012

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

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Janardan Singh @ Janardan Prasad Singh, Son of Late Ram Bhajan Singh, Resident of Village-Panapur, P.S.-Digha, District-Patna presently residing at Mohalla-Railway Gandak Colony, Town P.S. and District-Samastipur. Petitioner/s

Versus

1. The State of Bihar.
2. Kanti Devi, Wife of Janardan Prasad Singh, Resident of Panapur, P.S.-Digha, District-Patna, at present residing as daughter of Shri Ramdeo Singh, Resident of Village-Fanda, P.S.-Karja, District-Muzaffarpur. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Abhay Shankar Singh, Adv.

For the Opposite Party/s : Mr. Rajendra Prasad Nat, APP.

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CORAM: HONOURABLE JUSTICE SMT. ANJANA PRAKASH

ORAL JUDGMENT

Date: 20-07-2015

The Petitioner seeks quashing of the entire proceeding including the order of cognizance dated 23.12.2008 passed by the Sub-divisional Judicial Magistrate, (West) Muzaffarpur in Complaint Case No. 1045 of 2008.

The case of the Complainant is that she was married to the Petitioner in the year 1976 out of which a child aged about fifteen years was born. Initially, the Petitioner was unemployed but later on he got employment on compassionate grounds where his father was working. Later, when she went to the house of the Petitioner she learnt that the Petitioner had remarried hence the present Complaint.

It has been submitted on behalf of the Petitioner that fact of the matter is that the Complainant never wanted to live with the Petitioner on account of which he filed Matrimonial Suit No. 130 of 2008 for restitution of conjugal rights. The suit was decreed in favour of the Petitioner but she

refused to come to his house. The Complainant then filed an application filed under Section 125 Cr.P.C. vide Misc. Case No. 75 of 2008 wherein the Court directed that the Petitioner paid a sum of Rs. 2,500/- which he is paying regularly. The submission in circumstances when the marriage had taken place in the year 1976 and the Complaint was filed in the year 2008 does not appear reliable.

On the other hand, Counsel for the Complainant submits that the Petitioner exploited the Complainant in this period and even after the birth of a child he remarried.

Having looking into the nature of allegations in the Complaint, I am unable to satisfy myself that an offence punishable under Section 498A IPC or 494 IPC is made out.

Hence, the entire proceeding including the order of cognizance dated 23.12.2008 passed by the Sub-divisional Judicial Magistrate, (West) Muzaffarpur in Complaint Case No. 1045 of 2008 is, hereby, set aside.

The application stands allowed.

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

(Anjana Prakash, J.)

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