

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.8605 of 2009

Arising Out of Complaint Case No. 207 Year- 2008 District- SIWAN

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1. Kadir @ Kadir Hussain, son of Noori Miyan
 2. Noori Miyan @ Noor Mohamad, son of late Ish Mohammad
 3. Buni Khatoon, wife of Noori Miyan
 4. Sahdullah, son of Noori Miyan
 5. Babi Khatoon, wife of Sahdullah
 6. Sarwari Khatoon @ Salwani Bessa, daughter of Noori Miyan
At present wife of Haider Miyan of village Hussainganj, P.S. Hussainganj, Distt. Siwan.
 7. Akhtari Khatoon @ Akhtari Neya, daughter of Noori Miyan, wife of Nabi Hussain at Otani Patti, P.S. Mirganj, Distt. Gopalganj.
 8. Wahid, son of Noori Miyan
 9. Gulshan Khatoon, daughter of Sahdullah
- Petitioner Nos. 1 to 5 and 8 and 9 are resident of village Sarsar, P.O. Sarsari, P.S. Siwan Muffasil, Distt. Siwan.

.... Petitioner/s

Versus

1. The State of Bihar
2. Gulshan Khatoon, wife of Kadir Hussain at village Shanhri Amlori, P.S. Siwan (Muffasil), Distt. Siwan., at present Gulshan Khatoon, daughter of Abdul Satar, village Sakunt Pedari, Mohalla Naya Tola, P.O. Siwan, P.S. Siwan Nagar, Distt. Siwan.

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Ashok Kumar, Adv.
Mr. Kaushal Kumar Singh, Adv.
For the State : Mr. Ram Bachan Singh, A.P.P.

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CORAM: HONOURABLE JUSTICE SMT. ANJANA PRAKASH

ORAL JUDGMENT

Date: 10-07-2015

No one appears on behalf of the Petitioners.

The Petitioners who are the husband and in-laws of Complainant seek quashing of the order of cognizance dated 6.8.2008 passed by the Sub Divisional Judicial Magistrate, Siwan, in Complaint Case No. 207 of 2001, Trial No. 3390 of 2008.

The case of the Complainant is that she was married to the Petitioner No. 1 on 7.11.2001 according to Muslim rites. On that occasion, a large number of gifts were given to the in-laws. Out of the

wedlock, she bore a son but due to non-fulfillment of dowry, she was ousted from her matrimonial home on 5.10.2007.

It has been submitted on behalf of the Petitioners that it is impossible to believe that a person who was married for six years and had a child out of the marriage would still be tortured for ends of dowry. In fact, a dispute between the spouses arose because the Complainant wanted the Petitioner No. 1 to live separately and, thus, neglect his family to which he was not agreeable. It is for this reason that in a routine manner, the present Complaint was filed.

Having gone through the vague nature of allegation in the Complaint petition as also the period of the marriage, I would be inclined to accept that the Complaint has been filed for ulterior reasons and Petitioners are not punishable under Section 498A of the Indian Penal Code.

Hence, the application is allowed and the Proceeding including the order of the order of cognizance dated 6.8.2008 passed by the Sub Divisional Judicial Magistrate, Siwan, in Complaint Case No. 207 of 2001, Trial No. 3390 of 2008, is hereby set aside.

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

(Anjana Prakash, J)

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