

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.42630 of 2011

Arising Out of PS.Case No. -91 Year- 2009 Thana -null District- KHAGARIA

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1. Chandra Shekhar Singh S/O Jagdish Singh, Resident Of Village - Mahduttpur , P.O.- Jamunia , P.S.- Naugachia , District - Bhagalpur
 2. Jagdish Singh S/O Prayag Singh Resident Of Village - Mohadattpur , P.O. - Jamunia , P.S.- Naugachia , District - Bhagalpur.
 3. Smt.Vidhyabasini Devi W/O Jagdish Singh Resident Of Village - Mohadattpur , P.O. Jamunia , P.S.- Naugachia , District - Bhagalpur.
 4. Subhash Singh@ Shubhash Chandra Singh S/O Jagdish Singh Resident Of Village - Mohadattpur , P.O. Jamunia , P.S.- Naugachia , District - Bhagalpur.

.... Petitioner/s

Versus

1. The State Of Bihar
2. Babita Kumari W/O Subodh Singh @ Subodh Kumar Sinha And Daughter Of Amrendra Kumar 'Raman' Resident Of Village - Mahdattpur , P.O. - Jamunia , P.S.- Naugachia , District - Bhagalpur , Resently Village - Khora Noo (Gohohi Napur) P.O And P.S. Pasraha , District - Khagaria.

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Poddar Suresh Gandhi, Advocate
For the Opposite Party/s : Smt. Madhuri Lata, APP
For Opposite Party No.2 : Mr. Mritunjay Prasad, Advocate

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CORAM: HONOURABLE JUSTICE SMT. ANJANA PRAKASH

ORAL JUDGMENT

Date: 19-02-2015

The Petitioners, who are the brothers-in-law and parents-in-law of the Complainant, seek quashing of the order of cognizance dated 30.11.2010 passed by the S.D.J.M., Khagaria in Complaint case No.91C of 2009.

The case of the Complainant is that she was married to Subodh Singh in the year 1997, whereafter she came to her matrimonial home. She had one son surviving out of the marriage.

However, she started being tortured for ends of dowry and being threatened for non-fulfilment of the same. Her husband was thereafter given Rs.1,50,000/- on which he received on stamped paper but thereafter she was assaulted once again by the in-laws.

It has been submitted that it is impossible to believe that a person who was married in the year 1997 would be tortured till 2009 i.e. 12 years for ends of dowry. Evidently it appears there is some marital incompatibility between the spouses which has led to institution of the case against him, wherein the Petitioners had also been roped in being family members. There is not a single instance of torture having been meted out at their behest. The further submission is that the Petitioner No.1 is a teacher and used to reside in Naugachia.

On the other hand, the Counsel for the Complainant submits that the husband has remarried after ousting her from the matrimonial home and the Petitioners are not allowing her to live there. Therefore, they should be prosecuted.

Having considered the facts stated in the Complaint, in my opinion, the trial of the present Petitioners would be a nullity in absence of any cogent material against them which would justify putting them on trial in an offence under Section 498A I.P.C.

Hence, the application is allowed and the proceeding so far as the Petitioners are concerned including the order of cognizance

dated 30.11.2010 passed by the S.D.J.M., Khagaria in Complaint case No.91C of 2009 is hereby set aside.

However, the quashment of the present proceeding shall have no bearing on the case of the husband.

(Anjana Prakash, J)

Narendra/-

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