

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No. 13972 of 2012

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

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1. Ranjeet Modi S/o Saryug Modi Resident of Village- Barari, P.S.- Korha Gola, District- Katihar.
 2. Dileep Modi S/o Saryug Modi Resident of Village- Barari, P.S.- Korha Gola, District- Katihar.
 3. Sushila Modi @ Sushila Devi W/o Late Saryu Modi Resident of Village- Barari, P.S.- Korha Gola, District- Katihar.
 4. Sharmila Devi, W/o Mahendra Modi.
 5. Mahendra Modi, S/o Late Gainu Chourasiya @ Gainu Modi. Both Resident of Village-Champanagar, P.S.-Champanagar, District- Purnea.
- Petitioner/s

Versus

1. The State of Bihar.
 2. Baby Devi, W/o Ranjeet Modi, Daughter of Harishankar Modi, Resident of Mohalla-Bihpur, District & P.S. Bihpur, District- Bhagalpur.
- Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Binod Kumar, Adv.

For the Opposite Party/s : Mr. T.P. Mandal, APP.

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CORAM: HONOURABLE JUSTICE SMT. ANJANA PRAKASH

ORAL JUDGMENT

Date: 23-06-2015

Learned Counsel for the Petitioners seeks permission to withdraw the application so far as the Petitioner No. 1 is concerned.

The application is dismissed as withdrawn with regard to Petitioner No. 1.

Whereas the rest of the Petitioners are concerned they being in-laws seek quashing of the order of non-discharge dated 27.02.2012 passed by the Sub-divisional Judicial Magistrate, Naugachhia, Bhagalpur in G.R. No. 1095 of 2009.



The case of the Complainant is that she was married to Petitioner No. 1 on 06.05.2007 on which occasion large number of gifts were given to the in-laws. Initially, she was kept well for a year in the matrimonial home but later on they started making a demand of Rs. 1,00,000/- and on account of non-fulfilment of the same she was assaulted by the Petitioners who also called her miscarriage. She was then ousted from the matrimonial home on account of which the present case was instituted

It has been submitted on behalf of the Petitioners that fact of the matter is that when the marriage took place both the parties were happy but later on the relation-ship deteriorated which caused friction in the family and, hence, the present case. In fact, when the wife left him the husband has filed an application for restitution of conjugal rights where the Opposite Party No. 2 despite notices did not appear which shows bona fide of the Petitioners.

On the other hand, the Counsel for the Complainant submits that since the Petitioners have caused abortion they should be put on trial.

Having considered the nature of allegations as also there is no medical report in support of the factum of abortion as also the duration of the marriage which makes the demand of dowry improbable, the proceeding

of the present case including the order of non-discharge dated 27.02.2012 passed by the Sub-divisional Judicial Magistrate, Naugachhia, Bhagalpur in G.R. No. 1095 of 2009 is, hereby, set aside so far as the Petitioners No. 2, 3, 4 and 5 are concerned.

The application stands allowed.

Vikash/-

(Anjana Prakash, J.)

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