

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.46521 of 2014

Arising Out of PS.Case No. -1 Year- 2013 Thana -MAHILA P.S. District- SAHARSA

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1. Janeri Devi @ Janeriya Devi, wife of late Natho Yadav &
 2. Umesh Yadav, son of late Natho Yadav, both are resident of village-Khajuri, P.S.-Sour Bazar, District- Saharsa.

.... Petitioner/s

Versus

1. The State of Bihar &
2. Rina Devi, wife of Aashis Kjumar Abhishek, resident of village-Khajuri, P.S.- Sour Bazar, District- Saharsa.

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Pramod Mishra, Advocate
For the Opposite Party/s : Mr. Shardanand Mishra, Advocate
APP

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CORAM: HONOURABLE JUSTICE SMT. ANJANA PRAKASH

ORAL JUDGMENT

Date: 27-08-2015

The Petitioners, who are the mother-in-law and brother-in-law of the Opposite Party No.2, seeks quashing of the order of non-discharge dated 10.09.2014 passed by the Sub-Divisional Judicial Magistrate, Saharsa, in Mahila P.S. Case No.01 of 2013/G.R. No.52 of 2013.

The case of the Complainant is that she was married to the son of the Petitioner No.1 in the year 2009 whereafter she came to the matrimonial home. Initially, she was kept well and a child was also born, who was about 2½ yers old. After sometime, the accused persons started assaulting her for ends of dowry and the

husband started threatening her with second marriage. Later on, she was ousted from the matrimonial home keeping her belongings. She then fell ill and, so, she asked the authorities of the railway to make arrangement for her treatment. When her husband came to know about this, he became angry. Her husband along with the anti social elements got her assaulted and had also tried to take away the child.

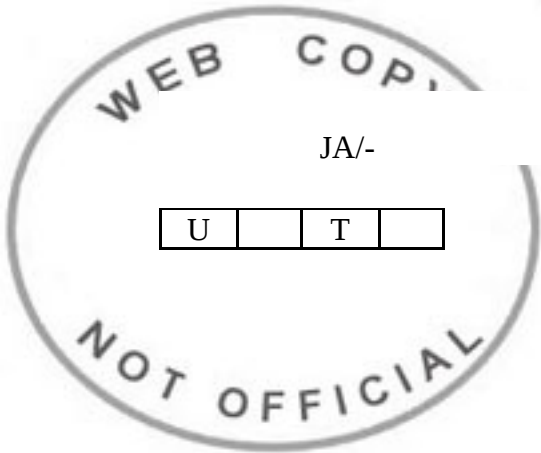
It has been submitted on behalf of the Petitioners that they are living in village home, whereas, the Informant and her husband used to reside at the railway quarter. If, at all, there was any issue, it was between the husband and wife and it does not stand to reason that a person would be tortured for dowry even after birth of a child.

On the other hand, counsel for the Informant submits that since the Petitioners are the mother-in-law and brother-in-law and are instrumental they should also be put on trial.

Considering the vague nature of allegation as also the relationship between the parties, I would be inclined to hold that prosecution of the present Petitioners is unwarranted.

Hence, the order of non-discharge dated 10.09.2014 passed by the Sub-Divisional Judicial Magistrate, Saharsa, in Mahila P.S. Case No.1 of 2013/G.R. No.52 of 2013 is hereby set aside in **so far as the Petitioners are concerned.**

The application stands allowed.



(Anjana Prakash, J)