

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.351 of 2015

Arising Out of PS.Case No. -242 Year- 2010 Thana -GAYA COMPLAINT CASE District- GAYA

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1. Chhotu Chaudhary Son of Late Kameshwar Choudhary.
2. Rajendra Choudhary Son of Late Kameshwar Choudhary Both are residents of Village-Masaudha,P.S-Nardhiganj,District-Nawada

.... Petitioner/s

Versus

1. The State of Bihar
2. Koshmi Devi Daughter of Naresh Choudhary Resident of Village-Sarsu,P.S-Atari,District-Gaya

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Krishndev Raj, Adv.

For the Opposite Party/s : Mr. Parmeshwar Mehta, APP

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CORAM: HONOURABLE MR. JUSTICE ADITYA KUMAR TRIVEDI

ORAL JUDGMENT

Date: 31-07-2015

Heard learned counsel for the petitioners as well as learned counsel for the State.

Petitioners, who happen to be the husband as well as brother of husband have prayed for quashing of order of cognizance dated 17.03.2011 passed by the S.D.J.M, Gaya in Complaint Case No. 242 of 2010 whereby and where under both the petitioners have been summoned to face trial for offence under Sections 494, 498A of the Indian Penal Code as well as 4 of the Dowry Prohibition Act.

It has been submitted on behalf of the petitioners that in spite of having been noticed, the O.P. No. 2/ complainant failed to respond. It has also been submitted that there happens to be no specific allegation attributed against the petitioners and on account of dispute having been arouse amongst the spouse, a Panchayati was convened

and in the aforesaid Panchayati, as the O.P. No. 2 had not appeared and further, the Pancha has opined that petitioner is willing to keep his wife while the parents of his wife did not permit, in the aforesaid background as well as considering the conduct of the O.P. No. 2, at the present moment, the order impugned is fit to be set aside.

On the other hand learned Additional P.P opposes the prayer.

During course of exercising powers under Section 204 Cr.P.C, in consonance with Section 190 Cr.P.C, it is evident that only a *prima facie* case has to be perceived. From the order impugned it is apparent that apart from S.A of the complaint, statement of four witnesses who were examined during course of an enquiry under Section 202 Cr.P.C and the learned Court perceived a *prima facie* case. Learned counsel for the petitioners failed to show any sort deficiency in the order impugned.

That being so, instant petition is found devoid of merit and is accordingly, dismissed.

(Aditya Kumar Trivedi, J)

Prakash/-

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