

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.20923 of 2011

Arising Out of PS.Case No. -77 Year- 2008 Thana -Chowk District- PATNA

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1. Ajay Kumar Rai son of Ram Ekbal Rai, resident of village Gurmea, P.S. Kartaha, District Vaishali, A/P AF Station, Bareilly
 2. Ram Ekbal Rai son of late Jiwan Rai, resident of village Gurmea, P.S. Kartaha, District Vaishali, A/PAF Station, Bareilly
 3. Smt. Sushila Devi wife of Sri Ram Ekbal Rai, resident of village Gurmea, P.S. Kartaha, District Vaishali, A/P AF Station, Bareilly
 4. Lalit Rai @ Lalit Kumar Rai son of Sri Girbaldhari Rai
 5. Neelam Devi w/o Lalit Rai, both resident of village Mansurpur, P.S. Sarai, District Vaishali

.... Petitioner/s

Versus

1. The State of Bihar
2. Smt. Minakshi Kumari wife of Sri Ajay Rai, daughter of Sri Sambhu Singh, A/p resident of Mohalla Chak Kalyan, P.S. Patna City Chauk, District Patna

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. B.B. Jha, Advocate

For the Opposite Party/s : Mr. Iftekhar Mahmood, APP

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CORAM: HONOURABLE JUSTICE SMT. ANJANA PRAKASH

ORAL JUDGMENT

Date: 05-02-2015

The Petitioners, who are the husband, parents-in-law, Nandosi and the Nanad respectively, seek quashing of the order of non-discharge dated 28.3.2011 passed by the S.D.J.M., Patna City in Chowk P.S. case No.77 of 2008 (G.R. No.973 of 2008).

The application so far as the Petitioner No.1 is concerned is permitted to be withdrawn.

The case of the Informant is that she was married to the Petitioner No.1 in June, 2004. However, when she came to her matrimonial home, she was taunted for the dowry she had brought and

in-laws started to torture her and pass sarcastic remarks. They kept persuading her to bring a certain amount of money and on failure to do so she was tortured. In the meanwhile she gave birth to a son which was also taken away by her husband.

It has been submitted that the Petitioner No.2, the father-in-law, was in the Army and was posted as Master Warrant Officer, Air Force Station, Bareilly, where the Petitioner No.3, his wife, also used to reside. Where the Petitioners No.4 and 5 are concerned, who are the brother-in-law and sister-in-law, had been married in the year 1994 and ever since then living in their own house at Vaishali. None of them had any concern with the Informant or her husband in the day-to-day affairs.

Fact of the matter is that the Informant had refused to live with her husband on account of which he was forced to file a Matrimonial Suit under Section 9 of the Hindu Marriage Act before the Principal Judge, Family Court, Vaishali bearing No.62 of 2008 for restitution of conjugal life on 19.5.2008. The present First Information Report was instituted on 18.11.2008 only with a view to create a defence. During investigation charge sheet was submitted only against the husband whereas the Petitioners were not sent up for trial.

The further submission is that it appears absurd that a person, who was married in the year 2004, would be continuously

tortured for four years for ends of dowry and even after birth of a child. In such circumstances, the Petitioners submit that they be exonerated from the trial.

On the other hand, the Counsel for the Informant submits that the Informant had periodically gone to Bareilly, where she was tortured and was ousted from the house on account of which on one occasion she had to stay at the Railway Station and hence the in-laws should be put on trial.

However, considering the background facts of the case, I would be of the view that where the Petitioners No.2 to 5 are concerned, they deserve to be discharged from the case.

Hence the application is allowed so far as the Petitioners No.2 to 5 is concerned and the proceedings including the order dated 28.3.2011 passed by the S.D.J.M., Patna City in Chowk P.S. case No.77 of 2008 (G.R. No.973 of 2008) are hereby set aside.

(Anjana Prakash, J)

Narendra/-

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