

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.35903 of 2012

Arising Out of Complaint Case No. -1624 Year- 2006 District- MUZAFFARPUR

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1. Diwakar Mishra, S/O Sri Ganesh Mishra
 2. Sabita Devi, W/O Sri Diwakar Mishra
- Both are R/O Vill-Karamwari, P.S.-Paroo, Distt-Muzaffarpur

.... Petitioner/s

Versus

1. The State Of Bihar
2. Bindu Devi, W/O Sri Diwakar Mishra, R/O Vill-Karamwari, P.S.-Paroo, Distt-Muzaffarpur, at present residing at village-Basra Kaji, P.S.-Saraiya, Distt-Muzaffarpur

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Neeraj Kumar Sanidh, Adv.
For the State : Mr. Pranav Kumar, A.P.P.

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CORAM: HONOURABLE JUSTICE SMT. ANJANA PRAKASH
ORAL JUDGMENT
Date: 21-04-2015

The learned counsel for the Petitioner No. 1 is permitted to withdraw the application so as to take attempt to a final settlement with the Complainant. Permission granted.

Heard learned counsel for the Petitioner and the State.

The Petitioner No. 2 who happened to be the alleged second wife of the Petitioner No. 1 seeks quashing of the order of non-discharge dated 14.7.2011 passed by the Judicial Magistrate, 1st Class, Muzaffarpur, in Complaint Case No. 1624 of 2006, Trial No. 4078 of 2012 which order was affirmed by the 9th Additional Sessions Judge, Muzaffarpur, in Criminal Revision No. 125 of 2011/34 of 2011 by order dated 14.7.2011.

The case of the Complainant is that she was married to the Petitioner No. 1 a long time ago and a Maintenance Case No. 7/88 was filed where a compromise was arrived at between them as per which the Petitioner No. 1 was to pay a sum of Rs.250/- per month to her. However, despite his commitment, the Complainant was not paid the money and when she went to live with her husband, she was driven away from the Matrimonial home.

It has been submitted on behalf of the Petitioner No. 2 that she is the alleged second wife of the Petitioner No. 1 and even conceding the allegation in the Complaint petition with regard to the non-maintenance of the Complainant, no Criminal offence is made out against her.

Having considered the aforesaid, the application is allowed and the order of non-discharge dated 14.7.2011 passed by the Judicial Magistrate, 1st Class, Muzaffarpur, in Complaint Case No. 1624 of 2006, Trial No. 4078 of 2012 as also the order dated 14.7.2011 passed by the 9th Additional Sessions Judge, Muzaffarpur, in Criminal Revision No. 125 of 2011/34 of 2011 so far as the Petitioner No. 2 is concerned, are hereby set aside.

(Anjana Prakash, J)

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