

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No. 30586 of 2012

Arising out of P.S. Case No. -2044 Year- 2011 Thana –
Complaint Case District- GAYA

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1. Amjad Ali Khan S/o Late Halim Khan Resident of Vill.- Piru, P.S.- Haspura, Distt.- Aurangabad.
 2. Huna Khatoon @ Husn Aara W/o Azad Khan Resident of Vill.- Piru, P.S.- Haspura, Distt.- Aurangabad..... .. Petitioner/s
- Versus

1. The State of Bihar.
 2. Sabnam Naz W/o Md. Amjad Ali Khan R/o Vill.- Piru, P.S.- Haspura, Distt.- Aurangabad At Present Resident Of Mohalla- Gewal Bigha, Koyali Pokhar, P.S.- Rampur, Distt.- Gaya.
- Opposite Party/s
- =====

Appearance :

For the Petitioner/s : Mr. Ajay Kumar-I, Adv.
For the Opposite Party/s : Mr. Anand Kishore Choubey, APP.

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CORAM: HONOURABLE JUSTICE SMT. ANJANA PRAKASH

ORAL JUDGMENT

Date: 19-05-2015

The Petitioners seek quashing of the order of cognizance dated 09.04.2012 passed by the Sub-divisional Judicial Magistrate, Gaya in Complaint Case No. 2044 of 2011 (Tr. No. 1892 of 2012).

The case of the Complainant is that she was married to the Petitioner No. 1 on 08.05.1999 on which occasion large number of gifts were given to the in-laws. Out of the wedlock one son was born whereafter her husband went to Saudi Arabia for work. However, when her husband returned he started demanding Rs. 2,50,000/- from her and took away her ornaments and ousted her from the matrimonial home.

It has been submitted on behalf of the Petitioners that fact of the matter is that there was some issue between the husband and the wife on account of which the Petitioners No. 1 divorced her on 17.01.2010

and had performed another marriage on 19.11.2011. The Complainant came to know of it and later on she filed the present Complaint with trumped up charges. It is absurd to believe that after twelve years of marriage anybody would make demand of dowry. Even if such a demand was made since it was not for consideration of marriage it would not come within the purview of Section 498A IPC and, hence, they should be exonerated from prosecution.

On the other hand, Counsel for the Complainant submits that since she had been tortured for ends of dowry by her husband and in-laws they should be put on trial. There is nothing to show as to whom the Petitioner No. 1 has remarried or when divorced.

Having considered the rival submissions, I am inclined to hold that in the facts of the case no criminal offence whatsoever is made out.

Hence, the entire proceeding as against all the accused persons including the order of cognizance dated 09.04.2012 passed by the Sub-divisional Judicial Magistrate, Gaya in Complaint Case No. 2044 of 2011 (Tr. No. 1892 of 2012) is, hereby, set aside.

The application stands allowed.

Vikash/-

(Anjana Prakash, J.)

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