

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No. 40355 of 2012

Arising out of P.S. Case No. -888 Year- 2004 Thana -null
District- SIWAN

- =====
1. Upendra Yadav, Son of Ramnawmi Yadav.
 2. Shashi Devi, Wife of Upendra Yadav. Both Resident of Village Hasua, P.S.-Nautan, District-Siwan.
 3. Akshay Lal Yadav, Son of Late Parma Yadav.
 4. Raghav Yadav @ Raghav Jee Yadav, Son of Late Param Yadav.
 5. Most. Laljhari Devi, Wife of Late Parma Yadav. Petitioner Nos. 3 to 5 are resident of Village-Pathadei, P.S.-Jiradei, District-Siwan.
- Petitioner/s

Versus

1. The State of Bihar.
 2. Hiramati Devi, Wife of Binod Yadav, Daughter of late Indrasan Yadav, Resident of Village-Pathadei, P.S.-Jiradei, District-Siwan, at present Resident of Village-Hathaura, P.S.-Hussainganj, District-Siwan.
- Opposite Party/s

with

=====

Criminal Miscellaneous No. 21184 of 2014

Arising out of P.S. Case No. -888 Year- 2004 Thana -SIWAN
COMPLAINT CASE District- SIWAN

=====

Binod Yadav Son of Late Parma Yadav resident of village - Pthadei,
Police Station - Jiradei, District - Siwan.

.... Petitioner/s

Versus

1. The State of Bihar.
2. Hiramani Devi Wife of Binod Yadav, Daughter of Late Indrasan Yadav resident of village - Pthadei, Police Station - Jiradei, District - Siwan. At present resident of village - Hathaura, Police Station - Hussainganj, District - Siwan.

.... Opposite Party/s

=====

Appearance :

(In Cr.Misc. No. 40355 of 2012)

For the Petitioner/s : Mr. Ramadhar Shekhar, Adv.

For the Opposite Party/s : Mr. APP.

(In Cr.Misc. No. 21184 of 2014)

For the Petitioner/s : Mr. Ramadhar Shekhar, Adv.

For the Opposite Party/s : Md. Fahimuddin, APP.

=====

CORAM: HONOURABLE JUSTICE SMT. ANJANA PRAKASH

ORAL JUDGMENT

Date: 02-07-2015



The Petitioners seek quashing of the entire proceeding including the order of non-discharge dated 15.09.2009 passed by the Sub-divisional Judicial Magistrate, Siwan in Complaint Case No. 888 of 2004 (Tr. No. 610 of 2011).

The case of the Complainant is that she was married to Petitioner, Binod Yadav in the year 1985 and after five years the second marriage was performed in the year 1990. On the said occasion large number of gifts were given to the in-laws. However, the accused persons started torturing her for a buffalo and finally ousted her from the matrimonial home.

Where Cr. Misc. No. 40355 of 2012 is concerned, the Petitioners No. 1, 3 & 4 are the brothers-in-law, Petitioner No. 5 is the mother-in-law and the Petitioner No. 2 is the sister-in-law (Nanad) of the Opposite Party No. 2. The Petitioner of Cr. Misc. No. 21184 of 2014 is the husband.

It has been submitted on behalf of the Petitioners that it is impossible to believe that a person who was married in the year 1990 would be tortured for ends of dowry for about fifteen years. The problem was of incompatibility between the spouses as is evident from the over-tones in the Complaint Petition.

On the last occasion, notices had been issued to

the Opposite Party No. 2 but none appears on her behalf on repeated dates.

It appears that at one point in time the matter was referred for mediation where the husband undertook to take his wife but she refused to go.

Having considered the nature of allegations and the relation-ship, I am inclined to accept the submissions of the Petitioners.

Hence, the entire proceeding as against all the Petitioners including the order of non-discharge dated 15.09.2009 passed by the Sub-divisional Judicial Magistrate, Siwan in Complaint Case No. 888 of 2004 (Tr. No. 610 of 2011) is, hereby, set aside.

The applications stand allowed.

However, this order shall not prejudice any party in any manner.

Vikash/-

(Anjana Prakash, J.)

U		T	
---	--	---	--