

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.32110 of 2014

Arising Out of Complaint Case No. -245 Year- 2014 District- EAST CHAMPARAN (MOTIHARI)

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1. Arsh Bareen @ Arsebdi @ Daizi, daughter of Late Abdul Majid, Wife of Nawaj Ahmad
 2. Mohammadi Khatoon, Wife of Late Abdul Majid
 3. Md. Imran @ Raju @ Imran Majid @ Md. Umraon, son of Late Abdul Majid
- All 1 to 3 resident of village - Ranipur (Basaitha), P.S. Benipatti, District - Madhubani
4. Md. Jilani son of Late Ayub resident of village - Basaitha, P.S. Benipatti, District - Madhubani

.... Petitioner/s

Versus

1. The State of Bihar
2. Nawaj Ahmad, son of Md. Abu Zafar, resident of village - Damla, P.S. Bisfi, District - Madhubani

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Javed Aslam, Adv.

For the State : Mr. Pranav Kumar, A.P.P.

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CORAM: HONOURABLE JUSTICE SMT. ANJANA PRAKASH

ORAL JUDGMENT

Date: 27-08-2015

Heard learned counsel for the Petitioners and the State.

The Petitioners seek quashing of the order of cognizance dated 16.4.2014 passed by the Chief Judicial Magistrate, Madhubani, in connection with Complaint Case No. 245 of 2014.

The case of the Complainant is that he was the husband of Petitioner No. 1. His marriage was solemnised in June, 2008 and out of the said marriage, he was blessed with two sons. However, his wife developed an illicit relationship with other person who was a Doctor from which, another son was born. The accused persons on the date of occurrence having come in his house started assaulting them and took

away the ornaments as well as other articles of Petitioner No. 1.

It has been submitted on behalf of the Petitioners that it is indeed true that the Petitioner No. 1 was married to the Opposite Party No. 2 but she was tortured for ends of dowry on account of which she instituted a Complaint Case No. 6054 of 2014. Further submission is that subsequently, the present Complaint has been filed only in order to create a defence against action against being taken against him with absurd allegations.

Notices had been issued to the Opposite Party No. 2 but despite service of notice, he has chosen not to appear before this Court.

Considering the nature of allegation and the relationship between the Parties, I would be inclined to hold that the present Prosecution is a gross abuse of the process of the Court and deserves to be set aside.

Hence, the application is allowed and the Proceeding including the order of cognizance dated 16.4.2014 passed by the Chief Judicial Magistrate, Madhubani, in connection with Complaint Case No. 245 of 2014, so far as the Petitioners are concerned, is hereby set aside.

(Anjana Prakash, J)

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