

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.11756 of 2012

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1. Md. Shamim @ Bhutu son of Md. Hussain
 2. Md. Hussin son of Farbad Disuma.
 3. Bibi Meera Khatoon wife of Md. Hussain. All are resident of village Mahboob khan Tola Purnea P.S. K Hat District Purnea.

.... Petitioner/s

Versus

1. The State of Bihar.
2. Shama Ara wife of Md. Shamim D/o Md. Jahiruddin

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Ram Prawesh Kumar

For the Opposite Party/s : Mr. Dilip Kumar(App)

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CORAM: HONOURABLE JUSTICE SMT. ANJANA PRAKASH
ORAL ORDER

5 05-02-2015 The application with regard to petitioner no. 1 is permitted to be withdrawn.

The petitioner nos. 2 and 3 are parents in-laws who seek quashing of the order of cognizance dated 18.10.2011 passed in Complaint Case No. 2961 of 2010 by the Sub-Divisional Judicial Magistrate, Araria.

The case of the complainant is that she was married to the petitioner no. 1 in the year 2007 but unfortunately she was tortured for ends of dowry and lastly thrown out of matrimonial home. It has been submitted that the complainant had earlier filed Complaint Case No. 3107 of 2009 in which cognizance was taken but thereafter in revision the Sessions Judge, Araria held that it was without territorial jurisdiction and set it aside. It is thereafter

that the present complaint was once again filed. The further submission is that the petitioner no. 1 had filed an application for restitution of conjugal right before the Principal Judge, Family Court, Purnea vide Matrimonial Case No. 42 of 2009 in which notices were issued to the opposite party no. 2 but she did not appear and thereafter ex parte order was passed on 30.10.2010 wherein the opposite party no. 2 was directed to restore the conjugal right. It is in order to create a defence that the present complaint has been filed.

On going through the complaint petition, I find there are vague and general allegations so far as the petitioner nos. 2 and 3 are concerned and hence the application is allowed. The order of cognizance dated 18.10.2011 passed in Complaint Case No. 2961 of 2010 by the Sub-Divisional Judicial Magistrate, Araria so far as the petitioners are concerned is hereby set aside.

(Anjana Prakash, J)

Prakash/-

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