

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.40747 of 2011

Arising Out of Complaint Case No. 907 Year- 2011 District- SIWAN

- =====
1. Afjal Kamal, son of Ziyaul Hasan Marhum
 2. Nasim Afza, wife of Ziyaul Hasan Marhum
 3. Sahista Parveen @ dokhtar, daughter of Ziyul Hasan Marhum
- All resident of Ram Janki Colony, Gauri Bazar, Deoria (U.P.)

.... Petitioner/s

Versus

1. The State of Bihar
2. Simmi Zamal, wife of Afjal Kalam, daughter of Asgal Ali @ nanhe, resident of Ram Janki Colony, Gauri Bazar, Deoria (U.P.), presently residing at Naya Bazar, Siwan, P.O. Siwan, P.S. Siwan Nagar, Distt. Siwan.

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Ranjeet Kumar, Adv.
Mr. Kundan Kumar, Adv.
For the State : Dr. Indihar Kumari, A.P.P.
For the Opposite Party No. 2 : Mr. Manoj Kumar Singh, Adv.
Mr. Anil Chandra, Adv.

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CORAM: HONOURABLE JUSTICE SMT. ANJANA PRAKASH
ORAL JUDGMENT
Date: 03-02-2015

Counter affidavit fled on behalf of the Opposite Party No.

2 be kept on the record.

The counsel for the Petitioner seeks permission to withdraw the application so far as the Petitioner No. 1 is concerned.

The application with regard to Petitioner No. 1 is dismissed as withdrawn.

Heard learned counsel for the Petitioners and the State.

The Petitioner No. 2 is the mother-in-law whereas the Petitioner No. 3 is the sister-in-law seek quashing of the order of cognizance dated 6.9.2011 passed by the Chief Judicial Magistrate,

Siwan, in Complaint Case No. 907 of 2011.

The case of the Complainant is that she was married with the Petitioner No. 1 on 9.11.2010, on which occasion a large number of gifts were given to the in-laws. While her stay at her matrimonial home between 10.11.2010 to 3.1.2011, she was treated well but thereafter, the behaviour changed and the in-laws started demanding more dowry. On failure to fulfill the said demand, she was tortured.

It has been submitted on behalf of the Petitioners that the fact of the matter is that there was some marital incompatibility between the spouses which led to the Petitioner No. 1 giving divorce to the Complainant on 13.4.2011. He filed such an application before the Officer-in-Charge of Gauri Bazar Police Station on 19.4.2011 and gave information to all the persons concerned. It is only subsequently that the present Complaint was filed with charges which are totally baseless. Moreover, there is no specific allegation with regard to the Petitioners No. 2 and 3.

On the other hand, the counsel for the Complainant submits that since the Petitioners No. 2 and 3 are close family members, and responsible for matrimonial harmony, they should also be put on Trial.

On going through the Complaint petition and

arguments, I would be of the opinion that the present Complaint appears to have been filed only after the husband took action against her on account of some marital incompatibility in which the Petitioners No. 2 and 3 had no role to play.

Hence, the application is allowed and the order of cognizance 6.9.2011 passed by the Chief Judicial Magistrate, Siwan, in Complaint Case No. 907 of 2011 so far as the Petitioners No. 2 and 3 are concerned, is hereby set aside.

(Anjana Prakash, J)

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