

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.38241 of 2011

Arising Out of PS.Case No. -2603 Year- 2007 Thana -null District- SIWAN

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1. Ram Ayodhya Mishra S/O Late Nagina Mishra
2. Girja Devi W/O Ram Ayodhya Mishra
3. Babli Kumari D/O Ram Ayodhya Mishra, all are. Resident Of Village-
Sonewarsha , P.O. Sonevarsha , P.S. Bhagwanpur Hat , Distt- Siwan.

.... Petitioner/s

Versus

1. The State Of Bihar
2. Pushpa Devi W/O Sanjay Mishra D/O Surendra Pandey At Present Address-
Resident Of Balia , P.S.Mohanganj , Distt- Siwan.

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Awanish Kr. Pandey, Advocate
For the Opposite Party/s : Mr. Umanath Mishra, APP
For Opposite Party No.2 : Mr. Dharendra Kumar Jha, Advocate

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CORAM: HONOURABLE JUSTICE SMT. ANJANA PRAKASH

ORAL JUDGMENT

Date: 19-02-2015

The Petitioners, who are the parents-in-law and the sister-in-law of the Opposite Party No.2, seek quashing of non-discharge dated 28.7.2011 passed by the Sub Divisional Judicial Magistrate, Siwan in Complaint case No.2603 of 2007 (Trial No.2211 of 2011).

The case of the Complainant is that she was married to Sanjay Kumar Mishra on 21.4.2000 whereafter she came to her matrimonial home. Even though her father had given sufficient gifts her father-in-law was not satisfied and he demanded Maruti car. However, the matter was pacified at that point in time and she came to her matrimonial home. Even at the time of '*Donga*' she brought huge

amount of gifts for her in-laws, but despite the same she was tortured both mentally and physically. Several times the Petitioners confined and assaulted her.

It has been submitted on behalf of the Petitioners that the Opposite Party No.2 is a highly educated person, whereas the Petitioners have a very humble living. She did not like to live in the village and stayed there for hardly a week. During her stay her attitude towards her in-laws was not good. In fact it is the Opposite Party No.2 who did not want to live with her husband, on account of which he filed Divorce case No.83 of 2007 on 27.6.2007. It is thereafter that the present case was instituted obviously to create a defence. The further submission is that even though there are bald allegations with regard to several instances of torture in the background of the dispute, such allegations appear to be untrue.

On the other hand, the Counsel for the Complainant submits that since the Petitioners are the in-laws, they should also be put on trial.

There is no doubt that the marriage had taken place in the year 2000 whereas the present Complaint had been instituted in 2007. It appears highly unlikely for seven years a person would be tortured for ends of dowry. Evidently from the Divorce petition filed on behalf of the husband earlier in time, I find that he had sought divorce on

grounds of mental cruelty.

In such view of the matter, the application is allowed and the proceeding including the order of non-discharge dated 28.7.2011 passed by the Sub Divisional Judicial Magistrate, Siwan in Complaint case No.2603 of 2007 (Trial No.2211 of 2011) is hereby set aside.

(Anjana Prakash, J)

Narendra/-

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