

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.47468 of 2014

Arising Out of PS.Case No. -1975 Year- 2008 Thana -MUZFFARPUR COMPLAINT CASE
District- MUZAFFARPUR

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Shakina Khatoon Wife of Allauddin Resident of Village - Gardhsisai, Vidyapati
Nagar, P.S. - Vidyapati Nagar, District - Samastipur.

.... Petitioner/s

Versus

1. The State of Bihar.
2. Halima Khatton Wife of Md. Firoz, Daughter of Md. Nizam, Resident of
Village - Manjhaullia, P.S. -Sakra, District- Muzaffarpur.

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. S.K. Gupta, Adv.

For the Opposite Party/s : Mr. P.S. Jaiswal, Adv.

For the State : Mr. R.B. Roy Raman, Adv.

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CORAM: HONOURABLE JUSTICE SMT. ANJANA PRAKASH

ORAL JUDGMENT

Date: 02-04-2015

The petitioner seeks quashing of the order of cognizance
dated 27.11.2008 passed by the Sub-Divisional Judicial Magistrate
(East), Muzffarpur in Complaint Case No. 1975C of 2008.

The case of the complainant is that she was married to the
brother of the petitioner in the year 2007 on this occasion large
number of gifts were given to the in-laws. However, the complainant
was ousted from the matrimonial home and the husband performed
second marriage. Several efforts were made to attempt settlement but
the same could not be resolved. The accused persons are said to have
assaulted the complainant.

It has been submitted on behalf of the petitioner that she

was the married sister-in-law (nanad) of the Opposite Party No. 2 who was herself married in the year 1987 where after living in her matrimonial home. Hence the petitioner had no control over the domestic affairs of the complainant and her husband. Moreover, it is impossible to believe that a person would be tortured for dowry after a long period specially after birth of two children.

On the other hand the counsel for the complainant submits that since the petitioner was one of the family members, she should be put on trial.

Having gone through the complaint petition and nature of allegation against the petitioner, I would be inclined to hold the prosecution so far as the petitioner is concerned unwarranted. Hence, the application is allowed and the order of cognizance dated 27.11.2008 passed by the Sub-Divisional Judicial Magistrate (East), Muzffarpur in Complaint Case No. 1975C of 2008, is hereby set aside so far as the petitioner is concerned.

(Anjana Prakash, J)

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