

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.11449 of 2014

Arising Out of PS.Case No. -2197 Year- 2012 Thana -PATNA COMPLAINT CASE District-
PATNA

- =====
1. Birendra Kumar @ Birendra Singh,
 2. Surendra Singh,
 3. Binod Kumar, all sons of Rambali Singh,
 4. Rita Devi, wife of Surendra Singh,
 5. Ram Bali Singh, son of late Newa Lal Singh,
 6. Dhanapatiya Devi, wife of Ram Bali Singh, all residents of village -
Sahadullahpur, P.S. - Ganga Bridge, District – Vaishali, at present Mohalla -
Jadua, P.S.- Town Hazipur, District - Vaishali

.... Petitioner/s

Versus

1. The State of Bihar &
2. Soni Devi, d/o late Munarik Yadav, wife of Birendra Kumar @ Birendra Singh,
resident of Mohalla- Kawakhoh, P.S.-Chowk Patna City, District- Patna, at
present Mohalla-P.C. Colony, Kankarbagh, P.S.-Kankarbagh, District- Patna.

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Amar Nath Singh, Advocate
For the Opposite Party/s : Mr. M. K. Nirala, APP
Mr. R. B. Roy 'Raman', Advocate

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CORAM: HONOURABLE JUSTICE SMT. ANJANA PRAKASH

ORAL JUDGMENT

Date: 24-09-2015

Counsel for the Petitioners seeks permission to
withdraw the application so far as Petitioner No.1-Birendra Kumar
@ Birendra Singh is concerned.

The application is **dismissed as withdrawn in so far
as Petitioner No.1 is concerned.**

Rest of the Petitioners, who are the in-laws, seek
quashing of the order of cognizance dated 29.11.2012 passed by the
Sub-Divisional Judicial Magistrate, Patna, in Complaint Case

No.2197-C of 2012.

The case of the Complainant is that she was married to the Petitioner No.1 on 22.04.2008 whereafter she went to her matrimonial home. She stayed well initially but later on the in-laws started torturing her for ends of dowry. The Petitioner No.1 started to pressurize that the property be disposed off and he be given his share. However, when the Complainant's family did not accept the proposal, she was further tortured.

It has been submitted on behalf of the Petitioners that in the facts of the case evidently the main grouse appears to be against the husband, who was making unreasonable demand from the family of the Complainant. No doubt, there is allegation as against the Petitioner No.4 of having attempted to rape but it appears that it has been levelled only for the reasons of making the offence more serious. Moreover, when the Magistrate looked into the matter, he also found a prima facie case only under Section 498-A Indian Penal Code and Section 4 of the Dowry Prohibition Act.

On the other hand, counsel for the Complainant submits that since the Petitioners are the family members, who together with the husband had committed torture upon her collectively, they should also be put on trial. Further submission is that even if the Magistrate did not take cognizance under Section

376 Indian Penal Code, it is always open for the Complainant to agitate the same at the relevant stage.

However, considering the duration of marriage, relationship between the parties as also the fact that the husband appears to be the main person, who was making demand of dowry by demanding a share in the family property of the Complainant, the order of cognizance dated 29.11.2012 passed by the Sub-Divisional Judicial Magistrate, Patna, in Complaint Case No.2197-C of 2012, is hereby set aside in **so far as Petitioner Nos.2 to 6 are concerned.**

Application is allowed in part.

(Anjana Prakash, J)

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