

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No. 41222 of 2011

- =====
1. Bikram Kumar S/o Sri Bandelal Sah Resident of Village- Navratan Hata Purnea, P.S.- S.K. Hat Purnea, District- Purnea.
 2. Mala Sah W/o Bikram Kumar Resident of Village- Navratan Hata Purnea, P.S.- S.K. Hat Purnea, District- Purnea.

.... Petitioner/s

Versus

1. The State of Bihar.
2. Sarita Kumari D/o Late Hari Shankar Lal Resident of Village- Laund Bazar, P.S.- Sirdala, District- Nawada.

.... Opposite Party/s

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with

Criminal Miscellaneous No. 142 of 2012

Arising out of P.S. Case No. -34 Year- 2010 Thana -Sirdala
District- NAWADA

- =====
1. Subhash Chandra @ Mantu S/o Late Saryug Prasad Resident of Village- Budhauri Bazar, P.S.- Sheikhpura, District- Sheikhpura.
 2. Poonam Chandra Devi W/o Subhash Chandra @ Mintu Resident of Village- Budhauri Bazar, P.S.- Sheikhpura, District- Sheikhpura
 3. Banarsi Devi W/o Late Saryug Prasad Resident of Village- Budhauri Bazar, P.S.- Sheikhpura, District- Sheikhpura.

.... Petitioner/s

Versus

1. The State of Bihar.
2. Sarita Kumari D/o Late Hari Shankar Lal Resident of Village- Laund Bazar, P.S.- Sirdala, District- Nawada.

.... Opposite Party/s

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Appearance :

(In Cr.Misc. No.41222 of 2011)

For the Petitioner/s : Mr. Amir Alam, Adv.

For the Opposite Party/s : Mr. Ram Chandra Sahani (APP)

(In Cr.Misc. No.142 of 2012)

For the Petitioner/s : Mr. Amir Alam, Adv.

For the Opposite Party/s : Mr. Anuj Kr.Srivastava (APP)

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CORAM: HONOURABLE JUSTICE SMT. ANJANA PRAKASH
ORAL ORDER

05. 02.02.2015

The Petitioners who are the brother-in-law
(Nandosi), sister-in-law (Gotani) and mother-in-law,
seventy five years of age seek quashing of the order of

cognizance dated 08.08.2011 passed by the Sub-Divisional Judicial Magistrate, Nawada in Sirdala P.S. Case No. 34 of 2010.

The case of the Informant is that she was married to Pawan Kumar on 26.05.2003 on which occasion large number of gifts were given to the in-laws. However, after coming to the matrimonial home she started being tortured and chastised for the nature of dowry she had brought. It is alleged that on 24.12.2003 the brother-in-law slapped her. On 22.11.2004 she assaulted by her husband in full public view. She was taunted for not having conceived any child and thereafter she was sent from the matrimonial home.

The Petitioners submit that they used to live in Purnia/Sheikhpura and had no concern with the matrimonial dispute. During investigation their complicity was found unjustified and, therefore, final report was submitted but differing with the same the Court took cognizance in the matter. The further submission is that since the Informant and her husband used to live in Noida there is no question of the Petitioners' participation in the occurrence. It is also submitted that it is highly unlikely that a person would be tortured for seven years long for ends of dowry. Evidently, there appears to be some matrimonial differences between the spouses which has led to the institution of the present First Information Report and second prosecution.

On the other hand, Counsel for the Informant submits that the husband has been playing the foul game with the Court by suppressing the fact that the dispute had gone up till the Hon'ble Supreme Court but the prayer of the husband was turned down even at that level and, hence, the Petitioners' prayer should not be entertained.

Having gone through the facts of the First Information Report, I would be of the view that since the Petitioners were living in Purnia/Sheikhpura where the Petitioner, Bikram Kumar was a Practicing Advocate in Purnia Civil Court and the Informant was living in U.P. with her husband the possibility of being tortured for seven years for ends of dowry by them does not appear probable.

Hence, the applications are allowed and the proceeding as against the Petitioners including the order of cognizance dated 08.08.2011 passed by the Sub-Divisional Judicial Magistrate, Nawada in Sirdala P.S. Case No. 34 of 2010 is, hereby, set aside.

The Applications stand allowed.

(Anjana Prakash, J.)

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