

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.16 of 2013

Arising Out of Complaint Case No.2253 Year- 2008 District- - Saran at Chapra.

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1. Manish Upadhyay @ Manish Kumar Upadhyay, S/O Late Vijay Shanker Upadhyay
 2. Manju Upadhyay, W/O Late Vijay Shanker Upadhyay
 3. Madhvi Trivedi, W/O Rajneesh Trivedi, daughter of late Vijay Shanker Upadhyay
- All resident of Morabadi Manda Colony, Harihar Singh Road, P.S- Bariatu, Distt- Ranchi.

.... Petitioner/s

Versus

1. The State of Bihar
2. Sneh Rashmi, D/O Bijendra Nath Dwivedi, resident of village- Dattapur, P.S- Saraiya, Distt- Muzaffarpur, presently residing at Salempur, P.S- Chhapra Town, Distt- Saran.

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Ambuj Nayan Chaubey, Adv.

For the State : Ms. Anuradha Singh, A.P.P.

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CORAM: HONOURABLE JUSTICE SMT. ANJANA PRAKASH

ORAL JUDGMENT

Date: 12-10-2015

Heard learned counsel for the Petitioners and the State.

The Petitioners seek quashing of the order of cognizance dated 25.10.2011 passed by the Sub Divisional Judicial Magistrate, Chhapra, in Complaint Case No. 2253 of 2008.

The case of the Complainant is that she was married to the Petitioner No. 1 on 21.1.2005 and, thereafter, she lived happily for the next five years. Subsequently, everyone started torturing her for non-fulfillment of demands of dowry. Lastly, in the month of March, 2006, she was ousted from the matrimonial home. Then a compromise

was arrived at after which she went again to the matrimonial home but then the atrocities continued and since 15.12.2007, she was living in her maternal home.

It has been submitted that it is indeed true that the Petitioner had married the Complainant on 21.1.2015 but things did not go well between the spouses on account of which the Petitioner No. 1 filed Matrimonial Title Suit 154 of 2005 upon which the Principal Judge, Family Court, Ranchi, declared the marriage null and void. As against this, the Complainant filed an Appeal in the Ranchi High Court by F.A. No. 211 of 2008 but the same was also dismissed by an order dated 15.6.2011. It has further been submitted that in this background, the Complaint having been filed four months later after the judgment in Matrimonial Title Suit 154 of 2005 was passed, is evidently false.

On the last occasion, notices had been issued to the Opposite Party No. 2, but, despite service of notice upon her brother, she has chosen not to appear before this Court.

Having considered the ancillary documents which are unimpeachable in nature, I am inclined to hold that the present Complaint has been filed in retaliation to the proceedings initiated by the Petitioner No. 1 and is malicious in nature.

Hence, the application is allowed and the entire

Proceeding including the order of cognizance dated 25.10.2011
passed by the Sub Divisional Judicial Magistrate, Chhapra, in
Complaint Case No. 2253 of 2008, is hereby set aside.

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(Anjana Prakash, J)