

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.12814 of 2013

Arising Out of Complaint Case No.700 Year- 2003 District- - Katihar.

Dr. Sabita Narayai Prasad @ Dr. Salita Narayani Prasad, D/O Late Dwarika Prasad
R/O At Green Nivash, R/O Mohalla-Bhikhanpur Gumati No.2, R.,B. S.S. Sahay
Road, P.S.-Kotwali, Distt.-Bhagalpur

.... Petitioner/s

Versus

1. The State of Bihar
2. Sulekha Devi, w/o Sir Krishna Kumar Pandit, r/o village-Baghmara, P.S.-
Manihari, Distt.-Manihari , Distt.-Katihar

.... Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Ajit Kumar Singh, Adv.
Mr. Ashutosh Kumar, Adv.
For the State : Mr. D. Singh Yadav, A.P.P.

CORAM: HONOURABLE JUSTICE SMT. ANJANA PRAKASH

ORAL JUDGMENT

Date: 06-10-2015

Heard learned counsel for the Petitioner and the State.

The Petitioner seeks quashing of the orders dated
2.5.2008 and 6.12.2012 by which the Sub Divisional Judicial
Magistrate, Katihar, who summoned the Petitioner and, thereafter,
refused to discharge her in Complaint Case No. 700 of 2003.

The case of the Complainant is that she was married to
Krishna Kumr Pandit in the year 1998 but she was tortured for ends of
dowry. Subsequently, when she became pregnant, she was taken to
the Clinic of the Petitioner and without her consent she was got
aborted by her husband.

It has been submitted on behalf of the Petitioner that she was the lady Doctor who had allegedly conducted the abortion but, there is no supporting document in respect to the same. The allegations are merely oral in nature.

On the other hand, the counsel for the Complainant submits that since aborting foetus was part of the torture meted out by the accused persons, the Petitioner should also be put on Trial.

Having considered that if the Petitioner is directed to face the trial in absence of any documentary material to conclusively prove that she has aborted the foetus without consent of the Complainant, the Trial on such oral allegations would be a nullity, hence, the application is allowed and the Proceeding including the orders dated 2.5.2008 and 6.12.2012 passed by the Sub Divisional Judicial Magistrate, Katihar, in Complaint Case No. 700 of 2003, is hereby, set aside as far as Petitioner is concerned.

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(Anjana Prakash, J)

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