

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.29881 of 2009

Arising Out of Complaint Case No. 2120C Year- 2006 Thana -null District- PATNA

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1. Suresh Chandra Sinha, son of late Rameshwar Prasad
 2. Awanish Kumar, son of Sri Suresh Chandra Sinha
 3. Ram Chandra Prasad, son of late Rameshwar Prasad

All resident of Mohalla Madhuriya, Biharsharif, P.S. Laheri, Distt. Nalanda.

.... Petitioner/s

Versus

1. The State of Bihar
2. Monika Mani, wife of late Rajnish Kumar, daughter of Sri Harish Chandra Prasad Mani, resident of Rajbanshi Nagar, Road No. 1, P.S. Shashtrinagar, Distt. Patna.1

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Amit Kumar, Adv.

Mr. Ravi Ranjan-1, Adv.

For the State : Mr. Ahmad Ali, A.P.P.

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CORAM: HONOURABLE JUSTICE SMT. ANJANA PRAKASH

ORAL JUDGMENT

Date: 11-08-2015

Heard learned counsel for the Petitioners and the State.

The Petitioners seek quashing of the order of non-discharge dated 27.9.2008 passed by the Sub Divisional Judicial Magistrate, Patna, in Complaint Case No. 2120C of 2006 which was affirmed by an order dated 8.7.2009 passed by the Sessions Judge, Patna, in Criminal Revision No. 717 of 2008.

The case of the Complainant is that she was married to one Rajnish Kumar, in accordance with Hindu rites on 10.12.2000 but her husband suddenly died on account of heart attack. Thereafter, the accused persons ousted the Complainant from the house even while

keeping her personal possession. When she went to file a case at the Police Station, they refused to institute it.

The Petitioners submits that the fact of the matter is that the present Complaint was filed belatedly only with a view to ensure that she got her share in the family property. In fact, the husband of the Complainant had been killed by her in league with her paramour, on account of which, Ramgarh P.S. Case no. 311 of 2008 was instituted by the Petitioner No. 1, and the case is proceeding. The wife of Petitioner No. 1 also filed a Title Suit before the Sub Judge, Biharsharif at Nalanda in which the Complainant is a defendant. She had submitted that the Defendant had withdrawn the claims of her husband from the Life Insurance Corporation and such monetary gains and that she should be disentitled from the property left by the deceased husband in instances when she is charged with murdering him.

On the last occasion, notices had been issued to the Opposite Party No. 2 but none appears on her behalf.

Having considered the background facts as also the allegations in the Complaint petition, I would be inclined to hold that the contentions of the same is a gross abuse of the process of the Court and deserves to be set aside.

Hence, the application is allowed and the Proceeding

including the order of non-discharge dated 27.9.2008 passed by the Sub Divisional Judicial Magistrate, Patna, in Complaint Case No. 2120C of 2006 as also the order dated 8.7.2009 passed by the Sessions Judge, Patna, in Criminal Revision No. 717 of 2008, are hereby set aside.

However, this order shall not prejudice any Party in any manner.

(Anjana Prakash, J)

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