

**IN THE HIGH COURT OF JUDICATURE AT PATNA**

**Criminal Miscellaneous No.9749 of 2014**

Arising Out of PS.Case No. -114 Year- 2013 Thana -GHANSHYAMPUR District- DARBHANGA

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1. Ganga Jha @ Ganga Prasad Jha Son Of Late Narayan Jha
  2. Vinod Devi Wife Of Ganga Jha @ Ganga Prasad Jha
- Both Resident Of Village - Rasiyari, P.S. - Ghanshyampur, District - Darbhanga.
3. Hira Devi Daughter Of Ganga Jha @ Ganga Prasad Jha, Wife Of Pramod Mishra
  4. Saraswati Devi Daughter Of Pramod Mishra
- Both Resident Of Village - Jaydevpatti, P.S.- Ghanshyampur, District - Darbhanga.

.... .... Petitioner/s

Versus

1. The State Of Bihar.
2. Suman Devi Wife Of Murari Jha Resident Of Village - Rasiyari, P.S.- Ghanshyampur, District- Darbhanga.

.... .... Opposite Party/s

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**Appearance :**

For the Petitioner/s : Mr. Pankaj Kumar Jha, Adv.  
Mr. Dharmendra Kr. Sinha, Adv.  
For the State : Mr. Narendra Pd., A.P.P.  
For the Opposite Party No. 2: Mr. Ajay Kumar Sinha, Adv.

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**CORAM: HONOURABLE JUSTICE SMT. ANJANA PRAKASH**

**ORAL JUDGMENT**

**Date: 17-09-2015**

Heard learned counsel for the Petitioners and the State.

The Petitioners seek quashing of the order of cognizance dated 7.1.2014 passed by the Sub Divisional Judicial Magistrate, Biraul at Benipur, Distt. Darbhanga, in Ghanshyampur P.S. Case No. 114 of 2013, corresponding to G.R. No. 460 of 2013.

The case of the Informant is that she was married to Murari Jha about 16 years ago but she was tortured for ends of dowry and her husband was assaulted by the Petitioners on account of which her husband fled away and till date he was traceless and, hence, the present First information Report.

It has been submitted on behalf of the Petitioners that fact of the matter is that the present case is not one under Section 498A Indian Penal Code. It is improbable that a person would be tortured for ends of dowry even 16 years after marriage. The dispute is merely over the property which the Informant thinks she is entitled to and, hence, she filed the present case with trumped up charges of assault.

On the other hand, the counsel for the Informant submits that since she has been ousted from her matrimonial home, the present Prosecution should not be quashed.

Having considered that essentially dispute centers around the right of residence of the Informant in the matrimonial home which is subject matter of the present proceeding, the application is allowed and the Proceeding including the order of cognizance dated 7.1.2014 passed by the Sub Divisional Judicial Magistrate, Biraul at Benipur, Distt. Darbhanga, in Ghanshyampur P.S. Case No. 114 of 2013, corresponding to G.R. No. 460 of 2013, is hereby set aside.

However, it will be open to the Informant to avail other remedies in accordance with law.

**(Anjana Prakash, J)**

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