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IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.34382 of 2012

Arising Out of PS.Case No. -119 Year- 2011 Thana -null District- BHOJPUR

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1. Rabi Kumar Pandey @ Viki Son Of Shashi Bhushan Pandey, Resident Of Village - Rahuthua, Police Station Barhampur, District - Buxar At Present Mohalla - Pakari (In The House Of Shankar Lal Shrivastava On Rent - Inside The Gali Of Dr. Essa) P.O. - Ara, Police Station - Nawada (Ara), District Bhojpur At Ara

.... Petitioner/s

Versus

1. The State Of Bihar
2. Rituraj Priyambada @ Rubi w/o Rabi Kumar Pandey @ Viki, at present c/o Umakant Pandey, Advocate, Muhalla Pakari (in front of Ara Muffasil Police Station), P.O. Ara, P.S. Nawada (Ara),Dist. Bhojpur (Bihar)

.... Opposite Party/s

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Appearance :
For the Petitioner/s : Mr. Rajeev Ranjan No.II, Advocate
For the Opposite Party/s : Mr. M. Haque, APP

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CORAM: HONOURABLE JUSTICE SMT. ANJANA PRAKASH
ORAL JUDGMENT
Date: 13-07-2015

No one appears on behalf of the Opposite Party No.2 on repeated calls.

The Petitioner, who is the husband of the Opposite Party No.2, seeks quashing of the order of cognizance dated 5.4.2011 passed by the Sub Divisional Judicial Magistrate, Ara in Complaint case No.119C of 2011 (S.T. No.3172 of 2011).

The case of the Complainant is that she was married to the Petitioner on 27.4.2008 according to Hindu rites, on which occasion large number of gifts were given to the in-laws. She then went to her matrimonial home, where the in-laws kept demanding

money for construction of the residential house at Ara. In the meanwhile a son was born but when she went to her matrimonial home with her child she was tortured once again. She was not allowed to meet her father whenever he came and then she had to be brought back to her maternal home.

The submission of the Petitioner is that fact of the matter is that the Complainant wanted to live with her father since they were only two sisters. The same was not agreeable to the Petitioner, so she left the matrimonial home and started living in the maternal home. The Petitioner then filed Restitution case No.165 of 2010 before the Principal Judge, Family Court, Buxar. On 17.1.2011 where notices were issued to the Opposite Party No.2. It was then that she filed a Maintenance case bearing No.13 of 2011 on 27.1.2011 and the present Complaint also on 27.1.2011. Evidently the present complaint has been instituted only for the reason of creating a defence for frustrating the restitution petition filed by the Petitioner. The further submission is that the Petitioner was serving in the Indian Navy and was ready to even now resume the matrimonial relationship. However, the Complainant never appeared to co-operate with the Petitioner. It is under these circumstances that the Petitioner seeks quashing.

I find that the dates given in the restitution petition reveal that the Complainant lived only for a very short while in the

matrimonial home, which negates the fact of torture for ends of dowry and that the present Complaint was filed after notice in the restitution matter. It evidently appears that it has been filed as a counter blast and hence deserves to be set aside. Hence, the application is allowed and the order of cognizance dated 5.4.2011 passed by the Sub Divisional Judicial Magistrate, Ara in Complaint case No.119C of 2011 (S.T. No.3172 of 2011) is hereby set aside.

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

(Anjana Prakash, J)

Narendra/-

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