

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.12339 of 2011

Arising out of P.S. Case No. -2439(C) Year- 2009 Thana -
Complaint District- PATNA

- =====
1. Santosh Kumar, S/o Late Nageshwar Pd. Ambastha, Resident of Khemnichak Subhash Nagar, P.S.-Ram Krishna Nagar, Patna.
 2. Ashutosh Kumar, S/o Late Nageshwar Pd. Ambastha, Resident of Rajendra Nagar Road No. 3 Narayan Bihar Apartment, P.S.-Kadamkuan, Dist.- Patna.
 3. Shishutosh Kumar Suman, Son of Late Nageshwar Pd. Ambastha, Resident of Exhibition Road, near Ashiyana Tower, P.S.-Gandhi Maidan, Dist.-Patna. Petitioner/s
- Versus
1. The State of Bihar.
 2. Malika Bahadur, D/o Mirtunjay Pd. W/o Shishutosh Kumar Suman, House of Late Satya Narayan Mishra, Ganghra House, 2nd Floor, Shiv Puri, P.S. Shastri Nagar, Dist.-Patna-23.
- Opposite Party/s
- =====

Appearance :

For the Petitioner/s : Mr. Tilak Sao, Adv.

For the Opposite Party/s: Mr. C. Jawahar, APP.

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CORAM: HONOURABLE JUSTICE SMT. ANJANA PRAKASH

ORAL JUDGMENT

Date: 20-06-2016

Learned Counsel for the Petitioners is permitted to withdraw the application so far as Petitioner No. 3, Shishutosh Kumar Suman is concerned.

The rest of the Petitioners who are the brothers-in-law of the Opposite Party No. 2 seek quashing of the order dated 14.03.2011 passed by the Judicial Magistrate, 1st Class, Patna in Complaint case No. 2439(C) of 2009.

The case of the Complainant is that she was married to Petitioner No. 3 on 10.12.2005 but subsequently she was tortured for ends of dowry and ousted from the matrimonial home.

It has been submitted that in fact there was some incompatibility between the husband and wife on account of which the Complainant left matrimonial home compelling the husband to file Matrimonial Suit No. 26 of 2007 for restitution of conjugal rights in which final decree has already been passed on 12.03.2010. It is only to create a defence that the present Complaint was filed.

Be that as it may, considering the relation-ship of the Petitioners No. 1 and 2 with the Complainant, the application is allowed and the order dated 14.03.2011 passed by the Judicial Magistrate, 1st Class, Patna in Complaint case No. 2439(C) of 2009 is, hereby set aside so far as the Petitioners No. 1 and 2 are concerned.

(Anjana Prakash, J.)

Vikash/-

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