

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.35527 of 2010

Arising Out Complaint .Case No.977C Year 2009 District- KHAGARIA

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1. Hafiz Md.Zahid Hussain @ Md.Zahid Hussain Faridi
 2. Md. Nehal Khan
 3. Md. Afsar Khan
 4. Md. Nesar Khan
- All sons of late Md. Samid Khan
5. Md. Belal Khan, son of late Fazal Khan
 6. Ibrana, wife of Md. Nesar Khan
 7. Mahenoor Sabina, wife of Md. Nehal Khan
 8. Moina Begum, wife of Md. Belal Khan
 9. Ahsana Begum, wife of late Nizam Khan
- All resident of village Ratan, P.S. Gogri Jamalpur, Distt. Khagaria.

.... Petitioner/s

Versus

1. The State of Bihar
2. Tabassum Khatoon, wife of Hafiz Md. Zahid Hussain Faridi, daughter of Md. Abul Khan, resident of village Ratan, P.S. Gogri Jamalpur, Distt. Khagaria.

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Binay Kumar Binit, Adv.
For the State : Mr. D.P. Tiwary, A.P.P.

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CORAM: HONOURABLE JUSTICE SMT. ANJANA PRAKASH

ORAL JUDGMENT

Date: 28-03-2016

Heard learned counsel for the Petitioners and the State.

Learned counsel for the Petitioner No. 1 seeks permission to withdraw the application to avail his remedies in accordance with law.

The application filed against Petitioner No. 1 is dismissed as withdrawn.

As for rest of the Petitioners, they are the in-laws of the Opposite Party No. 2 seek quashing of the order of cognizance dated

24.5.2010 passed by the Sub Divisional Judicial Magistrate, Khagaria, in Complaint Case No. 977C of 2009.

The case of the Complainant is that she was married to the Petitioner No. 1 on 19.11.2000 according to Muslim rites on which occasion gifts were given to the in-laws but they were not satisfied and she was tortured for ends of dowry on account of which she had to leave the matrimonial home.

It has been submitted on behalf of the Petitioners that it is impossible to believe that a person would be tortured for any reason whatsoever for nine years without any Complaint having been instituted. Fact is that there was some dispute between the husband and wife which led to filing a suit for restitution of conjugal rights before the Family Court, Khagaria vide Matrimonial Case No. 69 of 2009. So far as the Petitioners are concerned, there are vague and general allegations which do not inspire confidence.

On the other hand, the counsel for the Complainant submits that since the Petitioners are close family members, they should also be put on Trial.

Having considered the duration of marriage and the relationship of the present Petitioners with the Complainant as also the fact that the husband filed a suit for restitution of conjugal rights, in my opinion, putting the Petitioners on Trial would be a gross abuse

of the process of the Court and the Prosecution deserves to be set aside.

Hence, the application is allowed and the Proceedings including the order of cognizance dated 24.5.2010 passed by the Sub Divisional Judicial Magistrate, Khagaria, in Complaint Case No. 977C of 2009, so far as the Petitioners No. 2 to 9 are concerned, is hereby, set aside.

(Anjana Prakash, J)

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