

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.1871 of 2014

Arising Out of PS.Case No. -263 Year- 2010 Thana -BALIA District- BEGUSARAI

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Kari Pandit @ Kari @ Kali Pandit, Son of Triveni Pandit, Resident of
Village - Bhawanandpur Diara, P.S. - Baliya, District - Begusarai

.... Petitioner/s

Versus

1. The State of Bihar
 2. Bhukhali Devi, wife of Late Baleshwar Pandit
 3. Kanchan Devi, D/o Late Baleshwar Pandit
- Both residents of Village Singhaul, P.S. Muffasil, District Begusarai

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Jitendra Pd. Singh, Advocate
For the Opposite Party/s : Mr. Pancha Nand Pandit (APP)

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CORAM: HONOURABLE JUSTICE SMT. NILU AGRAWAL
ORAL ORDER

4 15-11-2016 Heard learned counsel for the petitioner and

learned APP for the State.

In spite of notice having been issued to opposite
party Nos. 2 and 3 and having been received by opposite party No.
2, who is mother of victim Kanchan Devi (opposite party No. 3)
no one has appeared on their behalf.

The instant application has been filed under
Section 482 of the Code of Criminal Procedure (for short the
Cr.P.C.) for quashing of the order dated 03.04.2012, passed by
learned Chief Judicial Magistrate, Begusarai in Balia P.S. Case
No. 263/10(G.R. No. 4208/10) whereby processes were directed to
be issued after cognizance being taken for offences punishable

under Sections 498-A and 364/34 of the Indian Penal Code.

It has been submitted by the learned counsel for the petitioner that initially a complaint case was lodged by opposite party No. 2 under Section 304-B, 120-B and 201/34 of the Indian Penal Code, but subsequently the victim Kanchan Devi, opposite party No. 3 appeared before the learned Magistrate and made her statement under Section 164 Cr.P.C. on 19.03.2013 that she left her matrimonial house after six months of her marriage, the marriage being seven years old. The victim has further stated in her 164 Cr.P.C. statement that she has returned 6-7 days back to her mother. No other allegation has been made by the victim girl. The complaint case, which was registered as formal First Information Report, bearing Complaint Case No. 1303C/06 has been lodged by opposite party No. 2 the mother of the victim girl.

It is further submitted by the learned counsel for the petitioner that the victim girl, opposite party No. 3 in her statement under Section 164 Cr.P.C. has made no allegation of cruelty or demand of dowry, hence, order taking cognizance under Section 498-A and 364 I.P.C. is not made out against the petitioner, rather the fact is that opposite party No. 3, who is the wife of the petitioner, had ran away on her own six months after marriage for which petitioner filed Informatory Petition No. 2151

of 2006 dated 03.07.2006 in the court of learned Chief Judicial Magistrate, Begusarai stating therein that the victim girl had left her matrimonial house on her own.

Considering the facts and circumstances and the statement of the victim girl, opposite party No. 3, ingredients of the offence as alleged are not attracted. The order of cognizance dated 03.04.2012 under Sections 498-A, 364/34 of the Indian Penal Code is hereby quashed.

The application is, accordingly, allowed.

(Nilu Agrawal, J.)

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