

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No. 39429 of 2011

Arising out of P.S. Case No. -157 Year- 2011 Thana –
Complaint Case District- NALANDA (BIHARSHARIFF)

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1. Basanti Devi, W/o late Mahabir Pd. Resident of Mohalla-Rajendra Path, Telbigha, P.S.-Kotwali, Dist.-Gaya.
 2. Radha Devi, D/o Late Mahabir Pd. Resident of Mohalla-Rajendra Path, Telbigha, P.S.-Kotwali, District-Gaya.

.... Petitioner/s

Versus

1. The State of Bihar.
2. Smt. Alpana Devi @ Guddi, W/o Sri Raju Kumar Gupta, D/o Sri Shiv Kumar Pd. Resident of Bichali Gali, Khandakpur, P.O. Bihar, P.S.-Biharsharif, Dist.-Nalanda.

.... Opposite Party/s

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Appearance :

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

For the Opposite Party/s: Mr. APP.

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CORAM: HONOURABLE JUSTICE SMT. ANJANA PRAKASH

ORAL JUDGMENT

Date: 25-01-2016

The Petitioners who are the in-laws seek quashing of the order of cognizance dated 11.05.2011 passed by the Sub-divisional Judicial Magistrate, Nalanda at Biharsharif in Complaint Case No. 157(C) of 2011.

The case of the Complainant is that she was married on 06.12.2008 after which she came to the matrimonial home but everyone started torturing her and ousted her from matrimonial home on 03.02.2011.

It has been submitted on behalf of the Petitioners that in fact the husband and wife had some differences on account of the wife disallowing to live with her husband which he could not honour and hence instituted the present case

against all the in-laws for bearing pressure upon him. The husband had also filed Matrimonial Suit No. 299 of 2010 under Section 9 of the Hindu marriage Act before the Principal Judge, Family Court, Gaya on 15.12.2010 and soon thereafter on notice she filed the instant Complaint on 14.02.2011 so as to create a defence.

Several notices had been issued to the Opposite Party No. 2 but despite service of notice she has chosen not to appear before this Court.

Having considered the duration of marriage and the background facts of the case, I would be inclined to hold that the present prosecution is a gross abuse of the process of the Court, the proceeding including the order of cognizance dated 11.05.2011 passed by the Sub-divisional Judicial Magistrate, Nalanda at Biharsharif in Complaint Case No. 157(C) of 2011 is, hereby, set aside so far as the Petitioners are concerned.

The Application stands allowed.

(Anjana Prakash, J.)

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