

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.14022 of 2015

Arising Out of PS.Case No. -2623 Year- 2012 Thana -PATNA COMPLAINT CASE District-
PATNA

- =====
1. Pramod Kumar Singh son of late Ganga Dayal Singh resident of village Amauna P.S. & District Rohtas at present Flat No. C2/406 Alpine Eco, Village Dodanna Kundi Outar Ringh Road Marathhalli Bangalore 59.
 2. Smt. Astura Devi wife of Sri Ramashish Singh Quarter No. 3296 Sector 128 Bokaro Steel City Jharkhand

.... Petitioner/s

Versus

1. State of Bihar.
2. Sri Harish son of late Kameshwar Mandal address Gokul Path Nala Par North Patel Nagar P.S. Patliputra Dist. Patna.
3. Namita Priyadarshini D/o Harish Kumar. R/o Nala Par North Patel Nagar P.S. Patliputra Patna.

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr.

For the Opposite Party/s : Mr.

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CORAM: HONOURABLE JUSTICE SMT. ANJANA PRAKASH

ORAL JUDGMENT

Date: 03-05-2016

The submission of the Petitioner no. 1 is that there are two cases pending between the parties almost for the same cause of action arising out of the matrimonial dispute while one is at Bangalore bearing Cr. Case No. 536 of 2012 and another is instant case. The submission of the Petitioner no. 1 in such circumstances is that both being parallel proceedings, the instant proceeding should be quashed.

Counsel for the Opposite Party no. 3 submits that the husband had filed a divorce suit at Bangalore which has been transferred to Patna by the Hon'ble Supreme Court. In such

circumstances, it is her proposal that she shall withdraw the case at Bangalore so that there would be no multiplicity of proceedings. This appears to be a very workable solution to the problem.

Hence the Opposite Party no. 3 is directed to file an application for withdrawal of her complaint pending in Bangalore within a period of six weeks from the date of receipt of this order.

Learned counsel for the petitioners seeks permission to withdraw the application so far as Petitioner no. 1 is concerned to raise all these points at the appropriate stage.

Permission is allowed.

The Petitioner no. 2 who is married sister-in-law seeks quashing of the order dated 02.12.2014 passed by the Sub-Divisional Judicial Magistrate, Patna in Complaint Case No. 2623C of 2012 by which he has rejected the petition under Section 245 Cr.P.C.

The case of the complainant is that his daughter Namita Priyadarshi Opposite Party no. 3 was married to the Petitioner no. 1 in the year 2009 where after she went to Bangalore where she noticed that one girl was talking & abusing her husband in filthy language. The said girl also abused her by saying that her husband had betrayed her. Being shocked his daughter filed a complaint before Bangalore Police on 20.04.2009. He further alleged that his daughter had suspected some foul play & felt cheated by her husband since he married her



suppressing the fact of his affair. Later the couple shifted to Gurgaon but her husband kept taunting her for demand of dowry in which he received full encouragement from his step sister, Petitioner no. 2. On one occasion in April, 2012 when she went to Bokaro to participate in marriage ceremony of son of the Petitioner no. 2 she passed sarcastic remarks about inadequacy of the dowry her husband had received and when she protested she was locked in a room by the petitioners. However, she was rescued and brought home. Later she went to Bangalore to live with her husband who further tortured her mentally for dowry and then the present complaint was filed.

The submission of the Petitioner no. 2 is that apart from the allegation that she had encouraged the husband of the daughter of the complainant and at one point of time passed sarcastic remarks, there is nothing more against her. Further the belated allegation that she had been locked up in a room on 17.04.2012 is apparently false. It is not possible that a person would be locked up in a room in a house which was teeming with guests already on account of marriage of the son of Petitioner no. 2. The allegation appears to have been only with a purpose that she be somehow roped in the present case. She being the elder sister used to look after the husband of the daughter of the complainant so she has been targeted.

On the other hand, the complainant submits that the Hon'ble

Apex Court in many cases had said that if there is specific overt act against the family members, he/she should be put on trial. Hence this Court should not entertain her plea.

Having considered the nature of allegations against the Petitioner no. 2, I would be inclined to hold that putting her on trial on allegations as discussed above would be against the interest of justice and a gross abuse of the process of the Court. Hence the application is allowed and the order dated 02.12.2014 passed by the Sub-Divisional Judicial Magistrate, Patna in Complaint Case No. 2623C of 2012 is hereby set aside so far as Petitioner no. 2 is concerned

The application stands disposed off.

(Anjana Prakash, J)

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