

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.2855 of 2012

Arising Out of PS.Case No. -0 Year- null Thana -null District- EASTCHAMPARAN(MOTIHARI)

1. Madhu Kant Dubey S/O Budhinath Dubey Resident Of Village Ekderma, P.S. Paharpur, District East Champaran.

.... Petitioner/s

Versus

1. The State Of Bihar
2. Rita Devi W/O Madhukant Dubey D/O Late Paras Pandey Resident Of Village Barura, P.S. Govindganj, District East Champaran.

.... Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Anish Kumar, Advocate

For the Opposite Party/s : Mr. Rajendra Pd. Nut, APP

For Opposite Party No.2 : Mr. A. Kumar, Advocate

CORAM: HONOURABLE JUSTICE SMT. ANJANA PRAKASH

ORAL JUDGMENT

Date: 09-02-2016

The Petitioner, who is the husband of the Opposite Party No.2, seeks quashing of the order of cognizance dated 10.1.2006 passed by the Sub Divisional Judicial Magistrate, Sadar, Motihari in Complaint case No.322 of 2005 (Enquiry case No.195 of 2005).

The case of the Complainant is that she was married to the Petitioner in the year 1987, whereafter a child was born but she was tortured for ends of dowry and thereafter ousted her from the matrimonial home.

It has been submitted on behalf of the Petitioner that it is impossible to believe that a person, who was married in the year 1987, would be tortured for ends of dowry for such a long time. Evidently

the grouse was else where and it was more a question of incompatibility between the spouses which has led to institution of the second Complaint when the cognizance in the earlier one was set aside.

On the other hand, the Counsel for the Complainant submits that since the Complainant is the wife, she is entitled to a respectable living with the Petitioner and hence he should be put on trial.

Having considered the improbable nature of the allegations, the application is allowed and the proceeding including the order of cognizance dated 10.1.2006 passed by the Sub Divisional Judicial Magistrate, Sadar, Motihari in Complaint case No.322 of 2005 (Enquiry case No.195 of 2005) is hereby set aside without prejudice to the rights of the parties.

(Anjana Prakash, J)

Narendra/-

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