

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.30353 of 2013

Arising Out of PS.Case No. -215 Year- 2012 Thana -GAYA COMPLAINT CASE District- GAYA

1. Manoj Kumar Sharma @ Manoj Kumar @ Guddu S/O Sri Birendra Mistry
2. Birendra Mistry S/O Late Nathun Mistry
3. Amit Kumar S/O Sri Birendra Mistry
4. Sheela Devi W/O Sri Birendra Mistry, Resident Of Village- Tardih, Police Station- Madanpur, District- Aurangabad (Bihar), At Present Address: House No. C559, Dabua Colony, Near Choudhar Ara Machine, N,I,T, Faridabad, Police Station- Saran, District- Faridabad (Haryana)

.... Petitioner/s

Versus

1. The State Of Bihar
2. Sanju Devi W/O Manoj Kumar Sharma @ Guddu, D/O Late Dharm Dev Sharma Resident Of Village- Sherghati Badhi Tola, Police Station- Sherghati, District- Gaya

.... Opposite Party/s

With

Criminal Miscellaneous No. 35182 of 2015

Arising Out of PS.Case No. -null Year- null Thana -null District- --

1. Manoj Kumar @ Guddu @ Manoj Kumar Sharma Son of Birendra Mistry, Resident of Village - Tardih, P.S. - Madanpur, District - Aurangabad (Bihar) Present Address - House No. C 559, Dabua Colony, near Choudhar Ara Mashin, NIT Faridabad, P.s. Saran, District - Faridabad (Haryana).

.... Petitioner/s

Versus

1. The State of Bihar.
2. Sanju Devi, D/o Late Dharmdev Sharma, R/o Village - Sherghati, Barhi Tola, P.S. - Sherghati, District - Gaya.

.... Opposite Party/s

Appearance :

(In Cr.Misc. No.30353 of 2013)

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

For the State : Mr. R.B. Roy Raman, APP

For Opposite Party No.2 : Mrs. M.Chatterjee, Advocate

(In Cr.Misc. No.35182 of 2015)

For the Petitioner/s : Mr. Md. Fahimuddin, Advocate

For the Opposite Party/s : Mr. A. Dayal, APP

CORAM: HONOURABLE JUSTICE SMT. ANJANA PRAKASH

ORAL JUDGMENT

Date: 17-05-2016

Counter Affidavit filed today on behalf of the Opposite

Party No.2 in Cr.Misc.No.35182 of 2015 be kept on the record.

Learned Counsel for the Petitioners seeks permission to withdraw the application so far as the Petitioner No.1 of Cr.Misc.No.30353 of 2013 is concerned.

Prayer is allowed.

In such consequences, Cr.Misc.No.35182 of 2015 has become infructuous and it is dismissed as such.

The rest of the Petitioners No.2 to 4 of Cr.Misc.No.30353 of 2013, who are the in-laws of the Opposite Party No.2, seek quashing of the order of cognizance dated 22.8.2012 passed by the court of Sri Rajiv Kumar, Judicial Magistrate, 1st class-cum-Additional Munsif, Sherghati, Gaya in Complaint case No.215 of 2012/ 1970 of 2012.

The case of the Complainant is that she was married to the Petitioner No.1 Manoj Kumar Sharma @ Manoj Kumar @ Guddu in the year 2008, whereafter she went to her matrimonial home. However, the accused persons started demanding dowry even after they had gone to Faridabad where the husband was working in a private Sector firm. She suspected that the husband had established an illicit relationship with another lady and when she complained to the in-laws they did not believe her. She gave birth to twins but the demands continued and hence the present Complaint.

It has been submitted on behalf of the Petitioners that as is evident from the Complaint Petition there was some issue

exclusively between the husband and wife which led to the husband filing a petition for grant of decree of divorce by HMA Petition No.1084 of 2011 before the District Judge, Family Court, Faridabad on 9.12.2011. It is thereafter that the present Complaint was filed on 5.5.2012 evidently to create a defence.

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

Having considered the vague nature of allegations and the nature of allegations of the Complainant against her husband which is indicative of a private dispute between the two, as also the earlier litigations, Cr.Misc.No.30353 of 2013 is allowed and the proceeding including the order of cognizance dated 22.8.2012 passed by the court of Sri Rajiv Kumar, Judicial Magistrate, 1st class-cum-Additional Munsif, Sherghati, Gaya in Complaint case No.215 of 2012/ 1970 of 2012 is hereby set aside so far the Petitioners No.2 to 4 are concerned.

(Anjana Prakash, J)

Narendra/-

AFR/NAFR	NAFR
CAV DATE	
Uploading Date	26.05.2016
Transmission Date	26.05.2016