

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No. 12024 of 2011

Arising out of P.S. Case No. -2889 Year- 2009 Thana –
Complaint Case District- GOPALGANJ

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1. Manoj Kumar S/o Late Radha Kishun Prasad @ Radhey Prasad Resident of Mohalla- Kalibagh, New Colony, Ward No.-4, P.S.- Bettiah Town, District- West Champaran.
 2. Ashok Kumar S/o Late Radha Kishun Prasad @ Radhey Prasad Resident of Mohalla- Kalibagh, New Colony, Ward No.-4, P.S.- Bettiah Town, District- West Champaran.
 3. Dilip Kumar S/o Late Radha Kishun Prasad @ Radhey Prasad Resident of Mohalla- Kalibagh, New Colony, Ward No.-4, P.S.- Bettiah Town, District- West Champaran.
 4. Kamal Kishore Prasad S/o Late Shivpujan Prasad Resident of Village- Ranighat, Birganj-13, P.S.- Birganj, District- Parsa (Nepal).
 5. K.P. Barnwal @ Lalan S/o Kamla Kishore Prasad Resident of Village- Ranighat, Birganj-13, P.S.- Birganj, District- Parsa (Nepal).
 6. Suman Devi W/o Lalan @ K.P. Barnwal Resident of Village- Ranighat, Birganj-13, P.S.- Birganj, District- Parsa (Nepal).
 7. Phul Badan Devi @ Phul Badan Kuer W/o Late Radha Kishun Prasad @ Radhey Prasad Resident of Mohalla- Kalibagh, New Colony, Ward No.-4, P.S.- Bettiah Town, District- West Champaran.
 8. Sharda Devi W/o Ashok Kumar Resident of Mohalla- Kalibagh, New Colony, Ward No.-4, P.S.- Bettiah Town, District- West Champaran.
- Petitioner/s

Versus

1. The State of Bihar.
 2. Vijay Kumar Barnwal S/o Late Satyanarayan Prasad Resident of Mohalla- Sareya, Ward No.-4, P.S.- Gopalganj, District- Gopalganj.
- Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Sanjeev Kumar No. 1, Adv.
For the Opposite Party/s: Mr. APP.

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CORAM: HONOURABLE JUSTICE SMT. ANJANA PRAKASH

ORAL JUDGMENT

Date: 20-06-2016

The Petitioners seek quashing of the order of cognizance dated 08.12.2010 passed by the Judicial Magistrate, 1st Class, Gopalganj in Tr. No. 4281 of 2011 arising out of Complaint Case No. 2889 of 2009.

The case of the Complainant is that his daughter's marriage was fixed with the accused No. 1 on 25.06.2007 but

later on the accused persons retracted from the arrangement and, hence, the present Complaint.

It has been submitted on behalf of the Petitioners that indeed the marriage of the Complainant's brother was fixed with the Petitioner No. 1 but the marriage could not materialize for other reasons and there was no exchange of any dowry, hence, no offence under Section 406 IPC is made out.

On the other hand, Counsel for the Complainant submits that it is impossible to believe that the accused persons would not have received any amount when the marriage was fixed and, therefore, they should be put on trial since they did not return the money after the negotiations broke.

Considering that the allegations are oral in nature which would be impossible to prove during trial, the entire proceeding including the order of cognizance dated 08.12.2010 passed by the Judicial Magistrate, 1st Class, Gopalganj in Tr. No. 4281 of 2011 arising out of Complaint Case No. 2889 of 2009 is, hereby, set aside.

The application stands allowed.

(Anjana Prakash, J.)

Vikash/-

AFR/NAFR	NAFR
CAV DATE	X
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