

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.26207 of 2013

Arising Out of PS.Case No. -236 Year- 2011 Thana -GAYA COMPLAINT CASE District- GAYA

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1. Prakash Gupta @ Om Prakash Gupta @ Prakash Kumar Gupta son of Late Bijay Saw @ Dhanushdhari Saw
 2. Dilip Saw @ Dilip Kumar son of Late Bijay Saw @ Dhanushdhari Saw
 3. Shanti Devi wife of Late Bijay Saw @ Dhanushdhari Saw
 4. Sudha Devi wife of Dilip Saw
- All are Resident Of Mohalla- Durani Jail Road, P.S- Nawada, District- Nawada.
5. Sangita Devi wife of Sunil Kumar Resident Of Village Serghati, P.S- Serghati, District- Gaya.
 6. Laki Devi wife of Rajesh Kumar Resident Of Village Ram Nagar, P.S Nawada, District- Nawada

.... Petitioner/s

Versus

1. The State Of Bihar
2. Nisha Kumari daughter of Norsingh Sao Resident Of Village Imamganj, P.S- Imamganj, District- Gaya.

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Sheo Kumar Prasad

For the Opposite Party/s : Mr. Abhay Kr.Roy(App)

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CORAM: HONOURABLE MR. JUSTICE RAKESH KUMAR

ORAL ORDER

4 29-11-2016 Heard Sri Sheo Kumar Prasad, learned counsel for the petitioners, Sri Abhay Kumar Roy, learned Additional Public Prosecutor as well as Sri Shivendra Prasad, learned counsel , who has appeared on behalf of the complainant /opposite party no. 2

Six petitioners have approached this court invoking its inherent jurisdiction under Section 482 of the Code of Criminal Procedure 1973 with prayer to quash an order dated 28.11.2011

passed in Complaint Case No. 236 of 2011 . By the said order learned Magistrate after conducting thorough enquiry has passed order of cognizance under Section 498(A), 323, 506 of the Indian Penal Code .

Learned counsel for the petitioners submits that the petitioners had earlier filed an informatory petition regarding showing apprehension of his false implication and petitioner no. 1 has also filed a matrimonial case vide Matrimonial Case No. 47 of 2012 in the court of Principal Judge, Family Court under Section 11 of the Hindu Marriage Act for a declaration that complainant of the present case is not wife of the petitioner no. 1. However after going through the impugned order it is evident that after complaint petition was filed, complainant was examined on S.A. and thereafter from the complainant's side about five witnesses were got examined and only thereafter order of cognizance was passed.

The court is of the opinion that since at the time of order of cognizance only those materials were available before the learned Magistrate which constituted offences, there is no ground to interfere with the impugned order. If so advised, petitioners may take the plea which has been taken in the present petition before the court below at appropriate stage i.e. at the stage of

charge.

The petition stands dismissed.

In view of dismissal of this petition interim order of stay dated 14.7.2014 stands vacated.

(Rakesh Kumar, J)

Praful/-

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