IN THE HIGH COURT OF JUDICATURE AT PATNA
Letters Patent Appeal No.1843 of 2012

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1. The State of Bihar through the Director General of Police, Bihar, Patna
2. The Deputy Inspector General of Police, Central Range, Kendriya Parichhetra), (Wrongly described as Central Region), Patna
3. The Senior Superintendent of Police, Patna
4. The Sub-Divisional Police Officer, Patna City, Patna

.... Appellants

Versus

Lakshman Yadav Son of Jaudi Yadav Resident of Village Lagurahi, P.O. - Harihargan, District - Palamu, Jharkhand

.... Respondent

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Appearance :

For the Appellants : Mr. Pushkar Narayan Shahi, AAG-10
Mr. Mritunjay Kumar, Advocate

For the Respondent : Mr. Prabhu Narayan Sharma, Advocate
Mr. Nagendra Pd. Yadav, Advocate

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CORAM: HONOURABLE MR. JUSTICE NAVANITI PRASAD SINGH
And
HONOURABLE JUSTICE SMT. NILU AGRAWAL

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE NAVANITI PRASAD SINGH)

Date: 30-03-2016

Heard learned counsel for the State and learned counsel for the writ petitioner-contesting respondent, and with their consent this appeal is being disposed of at this stage itself.

2. State is aggrieved by the judgment and order dated 16.01.2012 passed by learned Single Judge of this Court in C.W.J.C. No. 22280/2011, by which, the writ petition, filed against the penalty of compulsory retirement, was allowed and the punishment was set aside on the

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ground that the writ petitioner had earlier been proceeded against for the same charge, and for which he had been found guilty and received a black mark, which is a punishment. Again, on the same charge, he was departmentally proceeded and directed to be dismissed. It was converted into compulsory retirement by the Appellate Authority in appeal.

3. We have gone through the records and heard the parties at length. There is no case for interference.

4. It appears that the writ petitioner, who was a Constable in the Bihar Police, was married and having children. While posted at Chatra, he is alleged to have enticed another married lady, who also had children. She abandoned her husband and started living with him on the promise of marriage.

5. A disciplinary proceeding appears to have been started when the second lady complained to the officials in which the writ petitioner was awarded a black mark. He was later posted at Patna, where he continued with the said affair. This time, this lady again filed complaint in the Janta Darbar of the Chief Minister, which

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was the same allegation as earlier, and this led to the present departmental proceeding on the same very allegation. This second lady also ventured to file cases under Section 498A and 323 and other sections of the Indian Penal Code. We would not like to comment upon the police action on that regard. Again, for the same very allegation of enticed lady, to promise to marry with her, while he himself married with children, another departmental proceeding, on the basis of representation which was forwarded to the Chief Minister's Janta Darbar, was started, and the writ petitioner was punished with maximum penalty in the appellate proceeding. The disciplinary proceeding was conducted and in appeal the D.I.G. reduced the punishment from dismissal to compulsory retirement from the date of dismissal. That is what brought the writ petitioner to this court.

6. We have heard the parties and examined the records. The charge seems to be the same i.e. enticing a married woman, himself being married and promise of marriage. To us, it clearly appears that the second proceedings was an outcome because there was a complaint in the Chief Minister's Janta Darbar and action

had to be taken, otherwise, it was clearly barred on the principle of double jeopardy. No doubt, the writ petitioner was living a double life does not mean that he would be faced with double jeopardy.

7. We, thus, find no merit in this appeal. This appeal is, accordingly, dismissed.

(Navaniti Prasad Singh, J.)

(Nilu Agrawal, J.)

Rajeev/A.F.R.

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