

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.30308 of 2013

Arising Out of PS.Case No. -788 Year- 2002 Thana -SAMASTIPUR District- VAISHALI(HAJIPUR)

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Basanti Devi Wife of Late Arbind Narayan Singh, resident of village- Kishanpur,
Baikunth, P.S. Waris Nagar, District- Samastipur.

.... Petitioner/s

Versus

1. The State of Bihar.
2. Branch Manager, Life Insurance Corporation Tajpur Road, Samastipur.

.... Opposite Party/s

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Appearance :

For the Petitioner/s : M/s B.N.P. Singh, Jagdish Pd. Singh and
Ram Shankar Singh, Advs.

For the Opposite Party/s : M/s Abhimanyu Vatsa, Abhishek Singh,
Sudhanshu Trivedi, Neeraj Kumar and
Rajni Kant Singh, Advs.

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CORAM: HONOURABLE MR. JUSTICE SANJAY KUMAR

ORAL JUDGMENT

Date: 12-10-2017

1. This criminal miscellaneous application under section 482 of the Code of Criminal Procedure has been filed to quash the order dated 22nd May 2013 passed by the learned Sub-Divisional Judicial Magistrate, Samastipur in Trial No. 103 of 2013 (arising out of C.R No. 788 of 2002 in Samastipur Town Police Station Case No. 281 of 1996) whereby and whereunder the learned Magistrate refused to discharge the petitioner from the offence in question.

2. Heard learned counsel for the petitioner, learned counsel for the opposite party no. 2 and learned Additional Public Prosecutor for the State.



3. It appears from the record that the opposite party no. 2 (Branch Manager of Life Insurance Corporation of India) lodged an FIR against the petitioner alleging therein that the petitioner fraudulently received death benefit of her husband although her husband was alive. The matter was investigated and Police finding the case untrue, submitted Final Form. The opposite party no. 2 filed a protest petition whereupon cognizance for the offences under sections 420, 419, 467 and 468 of the Indian Penal Code, was taken against the petitioner. The petitioner filed a discharge petition along with certain document to show that her husband died in the year 1983 and she got death benefit of her husband on the basis of valid documents. The petitioner filed a Title Suit No. 2090 of 2003 against the present complainant for declaration with respect to the death of her husband which occurred on 10.04.1983. The said suit was contested by the present complainant and the Civil Judge, Junior Division-I, Samastipur decreed the suit on 20.03.2008 holding that the husband of the petitioner died on 10.04.1983 as asserted by her. The decision of Civil Court is final and no appeal has been filed by the present complainant (O.P. No. 2) against the said judgment. The learned Court below has not considered this document which is unimpeachable and finally adjudicated by a Civil Court.

4. In view of above discussion, the order dated 22nd May



2013 passed by the learned Sub-Divisional Judicial Magistrate, Samastipur in above Trial No. 103 of 2013 is quashed and the petitioner is discharged from the offence in question.

5. This application is, accordingly, allowed.

(Sanjay Kumar, J)

Mahesh/-

AFR/NAFR	NAFR
CAV DATE	N/A
Uploading Date	07.11.2017
Transmission Date	07.11.2017

