

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.38373 of 2013

Arising Out of PS.Case No. -1 Year- 2012 Thana -MAHILA P.S. District- SASARAM (ROHTAS)

- =====
1. Urmila Devi Wife of Sh. Krishna Dev Narayan Singh
 2. Krishna Dev Narayan Singh, Son of Late Munshi Choudhary
Both permanent resident of Mohalla- Niranjana Bigha, Ward No. 38, P.S.- Dehri,
Post- Manikpur, District- Rohtas At Sasaram

.... Petitioner/s

Versus

1. State of Bihar
2. Jyoti Kumar, Daughter of Sh. Rajendra Kumar Singh, Wife of Sh. Raju Ranjan
At Present, resident of Quarter No. 10b , Old Irrigation Colony,
Chitraguptmaidan, Dehri, P.O.+P.S.- Dehri, District- Rohtas At Sasaram

.... Opposite Party/s

with

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Criminal Miscellaneous No. 30960 of 2014

Arising Out of PS.Case No. -1 Year- 2012 Thana -MAHILA P.S. District- SASARAM (ROHTAS)

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Raju Ranjan, Son of Shri Krishna Dev Narain Singh, resident of Mohalla- Niranjana Bigha, Ward No.-38, Post- Manikpur, P.S.- Dehri, District- Rohtas at Sasaram, At Present Station Master, Viramgam Railway Station, P.O. + P.S.- Viramgam, District- Ahmadabad (Gujrat).

.... Petitioner/s

Versus

1. The State of Bihar
2. Jyoti Kumari D/o Sri Rajendra Kumar Singh & W/o Raju Ranjan At Present
residing at Quarter No.-10-B, Old Irrigation Colony, Chitragupt Maidan, Dehri,
P.S.- Dehri, District- Rohtas at Sasaram

.... Opposite Party/s

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Appearance :

(In both cases)

For the Petitioner/s	:	Mr. Ajay Kumar Thakur, Advocate. Mr. Ravi Ranjan, Advocate. Mr. M.K.Choudhary, Advocate.
For the State	:	Mr. Ajay Kumar, A.P.P.
For the Opposite Party/s :		Mr. Kanhaiya Pd. Singh, Sr. Advocate. Mr. Pratik Mishra, Advocate. Mr. Birendra Kumar Singh, Advocate.

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CORAM: HONOURABLE MR. JUSTICE ARUN KUMAR

ORAL JUDGMENT

Date: 14-07-2017

As both the petitions arise out of the same impugned order



taking cognizance dated 05.08.2013, so they are being disposed of by this common judgment.

2. Heard learned counsel for the parties.

3. In first petition, petitioners are mother-in-law and father-in-law of the informant/O.P. No. 2 and in the second petition, petitioner is the husband. The petitioners are aggrieved with the order taking cognizance dated 05.08.2013 passed by the S.D.J.M., Dehri, District-Rohtas at Sasaram in connection with Dehri (Mahila) P.S.Case No. 1 of 2012, whereby he has taken cognizance against the petitioners under Sections 498A/34 of the Indian Penal Code and Sections 3/4 of the Dowry Prohibition Act. Informant/IO.P. No. 2, Jyoti Kumari, has filed this police case against her husband, father-in-law, mother-in-law and others.

4. The case of the informant is that her marriage was not consummated since the date of solemnization of her marriage on 04.12.2011. Whenever she made an attempt for consummation of marriage, she was used to be harassed and assaulted by her husband. She made complain to mother-in-law and father-in-law, but father-in-law made demand of Alto car and two kathas of land only thereafter marriage will be consummated. F.I.R. was lodged within a year of marriage.

5. Learned counsel appearing on behalf of the petitioners



submits that it is wife/informant/O.P. No. 2 who does not want to live with her husband and has levelled false allegation that her husband is impotent. However, it is not a fact. He submits that the husband has filed a case for restitution of conjugal right under Section 9 of the Hindu Marriage Act in the Family Court and by the order of the said court, husband was examined by a Medical Board and after his examination, the Board opined that husband is potent. Further submission is that there is no specific allegation against father-in-law and mother-in-law with regard to making demand of dowry and torture.

6. Learned counsel appearing on behalf of the O.P. No. 2 submits that cruelty was being perpetuated by husband, father-in-law and mother-in-law continuously after marriage for realizing more dowry so husband did not consummate the marriage as such she suspected about his impotency. Moreover, there is specific demand of dowry by way of an Alto car and land against father-in-law and mother-in-law kept her entire jewellerys and belongings.

7. Having considered the rival submissions and on perusal of record, it appears that only after lapse of seven months since solemnization of marriage between the informant and Raju Ranjan, this police case was lodged. Specific allegation is that husband (petitioner) since then never consummated the marriage and not



established any physical relationship, despite attempt being made by wife repeatedly. Though the factual position emerges after examination of the Medical Board is that he is not impotent. So denial of sexual relationship by the husband with wife is itself constitutes cruelty. Moreover, there is specific allegation at this stage against the father-in-law of making demand of Alto car and two kathas land and mother-in-law used to torture her and kept her all jewellaries and belongings. The evidence collected during investigation also supported the case accordingly, charge sheet was filed by the police.

8. Therefore, for the aforesaid reasons, I do not find any ground for interference in the order taking cognizance dated 05.08.2013. Hence, both the petitions stand dismissed.

(Arun Kumar, J)

Sujit/-

AFR/NAFR	NAFR
CAV DATE	
Uploading Date	20.07.2017
Transmission Date	20.07.2017

