

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.13603 of 2014

Arising Out of PS.Case No. -36 Year- 2008 Thana -COMPLAINT CASE District- SUPAUL

- 1. Shambhu Narayan Singh Son of Late Ramavtar Singh
 - 2. Kadambari Devi Wife of Shambhu Narayan Singh
 - 3. Anshu Devi @ Anshu Singh, Daughter of Shambhu Narayan Singh,
- All are resident of Birpur, Ward No.2, Police Station-Birpur, District-Supaul.

.... Petitioner/s

Versus

- 1. The State of Bihar.
- 2. Priya Ranjani Singh Daughter of Binodanand Prasad Singh, resident of Gram Vikash Samittee, Mohanpur, Ward No.5, Kathauna, District-Saptari (Nepal) at present C/o Mr. Ramnarayan Yadav, residing at Gram Vikash Samittee Bhagwatipur, Tamasuiya, Ward No.6, District Siraha, (Nepal).

.... Opposite Party/s

with

Criminal Miscellaneous No. 10548 of 2014

Arising Out of PS.Case No. -32 Year- 2010 Thana -BIRPUR District- SUPAUL

- 1. Rahul Kumar Singh Son of Shambhu Narayan Singh
 - 2. Shambhu Narayan Singh Son of Late Ram Avtar Singh
 - 3. Kadambari Devi Wife of Shambhu Narayan Singh
 - 4. Anshu Devi Daughter of Shambhu Narayan Singh,
- All are resident of Birpur, Ward No. 2, Police Station- Birpur, District Supaul

.... Petitioner/s

Versus

- 1. The State of Bihar
- 2. Priya Ranjani Singh daughter of Binodanand Prasad Singh, resident of Gram Vikash Samittee, Mohanpur, Ward No. 5, Kathauna, District- Saptari (Nepal). At present C/o Mr. Ramnarayan Yadav, residing at Gram Vikash Samittee Bhagwatipur, Tamasuiya, Ward No. 6, District Siraha (Nepal).

.... Opposite Party/s

with

Criminal Miscellaneous No. 41679 of 2014

Arising Out of PS.Case No. -547 Year- 2007 Thana -COMPLAINT CASE District- SUPAUL

- 1. Binodanand Prasad Singh Son of Late Kusheshwar Prasad Singh, resident of Village - Ganu Bikash Samiti, Mohanpur Ward No. 5, Post Kathauna Bazar, P.S.-



Kalyanpur, District - Saptari, Nepal.

2. Srikant Singh Son of Sri Mohan Singh, resident of village - Telia Longai, Police Station- Phullidumar, District - Banka (Bihar).

.... Petitioner/s

Versus

1. The State of Bihar.

2. Rahul Kumar Singh Son of Sri Shambhu Nath Singh, resident of village- Birpur, P.S.- Birpur, District - Supaul (Bihar).

.... Opposite Party/s

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Appearance :

(In Cr.Misc. No.13603 of 2014)

For the Petitioner/s : Mr. Satish Kumar Singh, Adv.

For the Opposite Party No. 2 : Mr. Anand Kumar Singh, Adv.

For the State : Mr. Mayanand Jha, APP

(In Cr.Misc. No.10548 of 2014)

For the Petitioner/s : Mr. Satish Kumar Singh, Adv.

For the Opposite Party No. 2 : Mr. Anand Kumar Singh, Adv.

For the State : Mr. Mayanand Jha, APP

(In Cr.Misc. No.41679 of 2014)

For the Petitioner/s : Mr. Anand Kumar Singh, Adv.

For the Opposite Party/s : Mr. J. Upadhyay, APP

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CORAM: HONOURABLE MR. JUSTICE SANJAY KUMAR

ORAL JUDGMENT

Date: 22-08-2017

Heard the parties and perused all the three records.

2. The opposite party no. 2 of Criminal

Miscellaneous no. 13603 of 2014 filed a Complaint Case No. 36 of 2008 on the file of learned Sub-Divisional Judicial Magistrate, Birpur against her husband and in-laws. The matter was enquired and the learned Court below took cognizance against the husband and in-laws for the offence under section 498A and section 3/4 of the Dowry Prohibition Act. The petitioners of Criminal Miscellaneous no. 13603 of 2014 are father-in-law, mother-in-law and sister-in-law of the



opposite party no. 2 and they have prayed to quash the cognizance order dated 30.01.2008.

3. The petitioners of Criminal Miscellaneous no. 10548 of 2014 are husband and in-laws of the opposite party no. 2 and they have filed this application under section 482 of the Criminal Procedure Code for quashing the order dated 07.05.2012 passed by the learned Sub-Divisional Judicial Magistrate in G.R. No. 99 of 2010, arising out of Birpur Police Station Case No. 32 of 2010. The learned Magistrate, finding *prima facie* case, took cognizance for the offences under sections 341, 323, 504, 506, 379, 494, 498A/34 of the Indian Penal Code.

4. The petitioners of Criminal Miscellaneous no. 41679 of 2014 are in-laws of the opposite party no. 2 and they have prayed to quash the order dated 30.05.2011 passed by the learned Judicial Magistrate 1st Class, Birpur in Complaint Case No. 547 (C)/2007 (Tr. No. 677 of 2013). The learned Magistrate took cognizance for the offences under sections 147, 323, 312, 380/504 of the Indian Penal Code against these petitioners and four others.

5. The opposite party no. 2 of Criminal Miscellaneous No. 13603 of 2014, namely, Priya Ranjani Singh was married with one Rahul Kumar Singh on 29.06.2007. After few days of their marriage, her husband and in-laws allegedly started torturing her.



6. The husband filed a Complaint Case No. 547(C)/2007 against his wife and in-laws on 18.12.2007. The matter was enquired and the learned Magistrate, as per order dated 30.05.2011, took cognizance against wife and her family members for the offences under sections 147, 323, 312, 580 and 504 of the Indian Penal Code.

7. The wife having come to know about filing of complaint case by her husband, filed a Complaint Case No. 36 of 2008 against her husband and in-laws for the offences under section 498 of the Indian Penal Code and section 3/4 of the Dowry Prohibition Act. She again filed another police case against her husband and in-laws, vide Birpur Police Station Case No. 32 of 2010, on the allegation that her husband has married with another lady. The matter was enquired and Police found the case true only for the offence under section 498A of the Indian Penal Code. The learned Magistrate however took cognizance for the offences under sections 498A and 494 and other sections of the Indian Penal Code.

8. The learned counsel for the petitioners of Criminal Miscellaneous nos. 13603 and 10548 of 2014 submitted that the opposite party no. 2, Priya Ranjani Singh is resident of Nepal and she has married with a Nepali citizen and from the said wedlock, she has been blessed with children. The learned counsel in support of his contention, referred Annexure-4 of Criminal Miscellaneous no. 13603



of 2014, which is confirmation of kinship of Priya Ranjani Singh and her husband, Ram Narayan Yadav.

9. The learned counsel for the opposite party no. 2 does not dispute this fact and at the outset, the learned counsel for both the parties submitted that both the parties are willing to quash all the criminal proceedings pending between the parties.

10. The allegation of torture made in the complaint petition and police case filed by the wife appears omnibus, as she left place of her husband Rahul Kumar Singh without any rhyme or reason. All the cases were lodged by the wife subsequent to the case of her husband, which shows that she had no grievance against her husband prior to filing of case by her husband. The prosecution of the petitioners in such circumstance would be an abuse of process of Court.

11. Considering the nature of allegation, facts and circumstances and settlement between the parties, who are presently residing in two countries and also the fact that the wife is presently residing in Nepal with her second husband and are not willing to proceed with their respective cases, the order dated 30.01.2008 taking cognizance in Complaint Case No. 36 of 2008, the order dated 07.05.2012 taking cognizance in G.R. Case No. 99 of 2010 (arising out of Birpur Police Station Case No. 32 of 2010) and the order dated



30.05.2011 taking cognizance in Complaint Case No. 547(C)/ 2007 (T.R. No. 677 of 2013) are hereby quashed and the three criminal miscellaneous applications are allowed.

(Sanjay Kumar, J)

Mahesh/-

AFR/NAFR	NAFR
CAV DATE	N/A
Uploading Date	28.08.2017
Transmission Date	28.08.2017

