

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.41431 of 2014

Arising Out of PS.Case No. -83 Year- 2000 Thana -LAHERIASARAI District- DARBHANGA

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Urmila Devi Wife of late Mohan Ram, Resident of Village-Donar, P.S.-
Laheriasarai, District-Darbhanga at present residing at Sudai Ratauli,
P.S.-Phulparas, District-Madhubani.

.... Petitioner

Versus

1. The State of Bihar
2. Rajnigandha Daughter of Jagdish Raut Resident of Mohalla-Railway
Colony Quarter No. T/5A, .S.-Laheriasarai, District-Darbhanga.

.... Opposite Party

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Appearance :

For the Petitioner/s : Mr. Imteyaz Ahmad, Advocate
Mr. Shashank Shekhar, Advocate
For the Opposite Party/s : Mr. Kedar Jha, Advocate
For the State : Mr. Ram Bachan Singh, APP

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CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL JUDGMENT

Date: 10-10-2017

At the outset, learned counsel for the petitioner
submits that during pendency of the present application
petitioner no. 2 has died, and, therefore, an application
being I.A. No. 837/2015 has been filed for
expunging/deleting the name of petitioner no. 2.

Perused the said application. Prayer to
expunge/delete the name of petitioner no. 2 is allowed.

Heard learned counsel for the petitioner,
learned counsel for the opposite Party No. 2 as well as



learned Additional Public Prosecutor for the State.

The sole petitioner (after deletion of the name of petitioner no. 2) is mother-in-law of the Opposite Party No. 2 who has moved this court being aggrieved by order dated 04.08.2014 passed by the learned Sub-Divisional Judicial Magistrate, Darbhanga in Tr. No. 103/2014 arising out of Laheriasarai P.S. Case No. 83/2000, G.R. No. 912/2000 by which the application preferred on behalf of the petitioner under Section 239 of the Code of Criminal Procedure has been rejected.

Learned counsel for the petitioner submits that in fact the impugned order has been passed without application of judicious mind by the learned Magistrate which would be apparent from a reading of the order itself, which nowhere indicates the reason for rejection of the application. Learned counsel submits that although the impugned order refers only the name of accused Rajesh Kumar Ram on whose behalf application under Section 239 Cr.P.C. has been mentioned and has been held not maintainable, but the fact remains that the petitioner was one of the applicants along with her husband and by the impugned order the



application has been held not maintainable. He would further submit that the case is still pending at the stage of framing of charge itself.

Learned counsel for the Opposite Party No. 2 submits that he is not much aware of the present stage of the proceeding but admittedly Opposite Party No. 2 has got a decree of divorce vide Matrimonial Suit No. 03/2006 from the court of Principal Judge, Family Court, Darbhanga. A copy of the decree in the Matrimonial Suit is on the record of the present case.

This Court has perused the impugned order and the materials available on the record. The submission of learned counsel that the impugned order has been passed without referring even the case of the petitioner pleaded before the learned Magistrate has got force. The impugned order is totally unreasoned order not even slightly indicating the ground for rejection. The order only shows that the application is not maintainable and hence is fit to be dismissed.

In the circumstances stated above, this court is of the opinion that impugned order must be set aside and is



accordingly set aside by this Court. The court below is directed to consider the application afresh and pass a reasoned order on the said application.

This application is allowed to the extent indicated hereinabove.

(Rajeev Ranjan Prasad, J.)

Rajeev/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	10.10.2017
Transmission Date	10.10.2017

