

**IN THE HIGH COURT OF JUDICATURE AT PATNA**

**Criminal Miscellaneous No.39331 of 2014**

Arising Out of PS.Case No. -68 Year- 2013 Thana -MANIYARI District- MUZAFFARPUR

- =====
1. Urmila Devi Wife of Naval Kishor Thakur @ Nawal Thakur, Resident of Village Harishankar Maniyari, P.S. Maniyari, District Muzaffarpur
  2. Naval Kishor Thakur @ Nawal Thakur Son of Late Ram Anutha Thakur Resident of Village Harishankar Maniyari, P.S. Maniyari, District Muzaffarpur
- .... .... Petitioners

Versus

1. The State of Bihar
  2. Mamta Singh @ Mamta Gupta Daughter of Ram Chandra Thakur, Wife of Krishna Mohan Gupta R/o Bakarganj Bajar, P.S. Pirbahore, District Patna
- .... .... Opposite Parties

with

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**Criminal Miscellaneous No. 43258 of 2014**

Arising Out of PS.Case No. -68 Year- 2013 Thana -MANIYARI District- MUZAFFARPUR

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Vijay Kumar @ Vijay Thakur @ Vijay Kumar Thakur Son of Naval Kishor Thakur Resident of Village Harishankar Maniyari, P.S. Maniyari, District Muzaffarpur

.... .... Petitioner

Versus

1. The State of Bihar
  2. Mamta Singh @ Mamta Gupta Daughter of Ram Chandra Thakur, Wife of Krishna Mohan Gupta R/o Bakarganj, P.S. Pirbahore, District Patna
- .... .... Opposite Parties

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**Appearance :**

(In Cr.Misc. No.39331 of 2014)

For the Petitioners : Mr. Arun Kumar, Advocate

For the State : Mr. Nand Kumar, Advocate

(In Cr.Misc. No.43258 of 2014)

For the Petitioner : Mr. Bipin Kumar, Advocate

For the State : Mr. Rajendra Prasad Nat, APP

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**CORAM: HONOURABLE MR. JUSTICE ARUN KUMAR**

ORAL JUDGMENT

**Date: 06-11-2017**

Heard learned counsel for the parties.

2. As both the cases arise out of order dated 18.06.2014, passed by the learned Judicial Magistrate, 1<sup>st</sup> Class, Muzaffarpur in G.R. No.733 of 2013, arising out of Maniyari P.S. Case No.68 of 2013, they are being heard together and disposed of by this common



judgment.

3. The petitioners seeks quashing of order dated 18.06.2014, passed by the learned Judicial Magistrate, 1<sup>st</sup> Class, Muzaffarpur in G.R. No.733 of 2013, arising out of Maniyari P.S. Case No.68 of 2013 thereby taking cognizance of the offence under Sections 341, 323, 324 and 498A of the Indian Penal Code.

4. The facts as alleged in the First Information Report by the informant, opposite party no.2, is that she was married one year ago with her husband and thereafter the petitioners started torturing and assaulting her on some trivial issue. It is alleged that on 16.04.2013, the petitioners started abusing and assaulting her asking her to leave the house and Urmila Devi, the mother-in-law, gave an axe blow over her head causing cut injury and her father-in-law, Naval Kishor Thakur and others also assaulted. Thereafter she was treated.

5. Learned counsel for the petitioners submits that earlier she was already married in the year 2003 but this petitioner married in the year 2012 and a false representation was made by her that she is still unmarried and she is habitual in filing such type of cases as she earlier filed a case under Section 498A of the Indian Penal Code against the first husband. It is also submitted that there is no specific allegation of assault against Naval Kishor Thakur, petitioner no.2 of



Cr. Misc. No.39331 of 2014, father-in-law and police also not finding the evidence against him did not send up for trial but only submitted charge-sheet against the husband of the informant and Urmila Devi, the mother-in-law.

6. Learned counsel for the State submits that it was the second marriage of Vijay Kumar @ Vijay Thakur @ Vijay Kumar Thakur, the accused and petitioner of Cr. Misc. No.43258 of 2014. He married with the informant after death of his first wife, so both were married prior to their marriage and there is specific allegation against the petitioners.

7. Having considered the rival submissions of the parties and on perusal of the records, the Court finds that there is specific allegation against Urmila Devi, petitioner no.1 of Cr. Misc. No.39331 of 2014, the mother-in-law of the informant and Vijay Kumar @ Vijay Thakur @ Vijay Kumar Thakur, petitioner of Cr. Misc. No.43258 of 2014 regarding committing torture and assault and causing injury to her though there is general and omnibus allegation against the father-in-law, petitioner no.2 of Cr. Misc. No.39331 of 2014. The police finding no evidence against him during investigation not sent up petitioner no.2 for trial. Since the allegation against Urmila Devi, the mother-in-law and Vijay Kumar @ Vijay Thakur @ Vijay Kumar Thakur, the husband of the informant is specific, so



there is no ground for interfering with the impugned order summoning Urmila Devi, mother-in-law, petitioner no.1 of Cr. Misc. No.39331 of 2014 and Vijay Kumar @ Vijay Thakur @ Vijay Kumar Thakur, the petitioner of Cr. Misc. No.43258 of 2014, the husband of the informant to face trial. However, there is neither any specific allegation against Naval Kishor Thakur, the father-in-law nor any other material against him, so continuation of the criminal proceeding against Naval Kishor Thakur, the father-in-law, petitioner no.2 of Cr. Misc. No.39331 of 2014 would be an abuse of the process of the court as *prima facie* the ingredients of the alleged offence is not made out against him, so the entire criminal proceeding inclusive of cognizance order dated 18.06.2014, passed by the learned Judicial Magistrate, 1<sup>st</sup> Class, Muzaffarpur in G.R. No.733 of 2013, arising out of Maniyari P.S. Case No.68 of 2013 only with respect to Naval Kishor Thakur @ Nawal Thakur, petitioner no.2 of Cr. Misc. No.39331 of 2014 is quashed.

8. Accordingly, these quashing applications stand disposed of.

**(Arun Kumar, J.)**

S.Kumar/-

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