

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.18125 of 2014

Arising Out of PS.Case No. -556 Year- 2011 Thana -PATNA COMPLAINT CASE District-
PATNA

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1. Deepak Kumar Son of Ram Balak Thakur Resident of village- Sorangpur, P.S.-
Ram Krishna Nagar, District- Patna

.... Petitioner/s

Versus

1. The State of Bihar
2. Vinita Kumari Daughter of Avinash Thakur Resident of village- Chhoti
Tengraila, P.S.- Naubatpur, District- Patna

.... Opposite Party/s

with

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Criminal Miscellaneous No. 18422 of 2014

Arising Out of PS.Case No. -556 Year- 2011 Thana -PATNA COMPLAINT CASE District-
PATNA

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1. Vikky Kumar Son of Ram Balak Thakur Resident of Village Sorangpur, P.S.-
Ram Krishna Nagar, District- Patna.
2. Pappu Kumar Son of Ram Balak Thakur Resident of Village- Sorangpur, P.S.-
Ram Krishna Nagar, District- Patna.

.... Petitioner/s

Versus

1. The State of Bihar
2. Vinita Kumari Daughter of Avinash Thakur Resident of Village- Chhoti
Tengraila, PS- Naubatpur, District- Patna.

.... Opposite Party/s

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Appearance :

(In Cr.Misc. No.18125 of 2014)

For the Petitioner/s : Mr.

For the Opposite Party/s : Mr.

(In Cr.Misc. No.18422 of 2014)

For the Petitioner/s : Mr.

For the Opposite Party/s : Mr.

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CORAM: HONOURABLE MR. JUSTICE SANJAY PRIYA

ORAL JUDGMENT

Date: 22-11-2017

Both these petitions are heard together.



These applications have been filed for quashing the order dated 13-10-2011 passed by learned Sub Divisional Judicial Magistrate, Danapur in Complaint Case No. 556C of 2011 by which, the learned Magistrate after holding inquiry u/S 202 Cr.P.C. has found prima facie against the petitioners for the offence under Sections-498A and 323 of the IPC.

Petitioners in Cr. Misc. No. 18422 of 2014 are Devars of the complainant and the petitioner in Cr. Misc. No. 18125 of 2014 is husband of the complainant.

Counsel for petitioners has filed supplementary affidavit today in court in which, it has been stated that Divorce with mutual consent u/S 13 B of Hindu Marriage Act has been granted to the parties in Matrimonial Case No. 223 of 2013 vide order dated 10-01-2017. Counsel for petitioners has pointed out Annexure-4 to the counter affidavit, which is order dated 17-11-2014 passed in Cr. Misc. No. 17443 of 2014 by a coordinate bench of this court by which, criminal proceeding against the parents-in-law of the complainant was quashed.

From perusal of the judgment passed by the Principal Judge Family Court, Patna in Matrimonial Case No. 223 of 2013 u/S 13B of the Hindu Marriage Act, it appears that the wife has agreed in the court to withdraw the complaint case filed against opposite party



immediately.

In such circumstances, keeping in view that petitioners of Cr. Misc. No. 18422 of 2014 are Devars of the complainant and they have no concern with the affairs between the complainant and her husband, the impugned order dated 13-10-2011 passed by learned Sub Divisional Judicial Magistrate, Danapur in Complaint Case No. 556C of 2011 along with entire criminal proceeding against them is hereby quashed.

So far as Cr. Misc. No. 18125 of 2014 is concerned, the petitioner is husband of the opposite party No. 2. The wife (opposite party No. 2) is directed to file a petition in the court below for withdrawal of the complaint case as agreed by her during the grant of divorce with mutual consent, within a period of two months from the date of receipt of this order, and the court below will after filing of such petition, pass appropriate order in accordance with law without any delay after taking into consideration that marriage between the parties has already been dissolved by mutual consent.

In the event, the wife does not file the petition to withdraw the complaint as observed by this court within two months from the date of receipt of this order, the petitioner is given liberty to file appropriate petition for discharge at the time of framing of charge on the ground that now relationship of husband and wife has been



dissolved by decree of divorce with mutual consent u/S 13B of the Hindu Marriage Act, which shall be disposed off by court below in accordance with law without any delay.

(Sanjay Priya, J)

A.K.V./-

AFR/NAFR	NAFR
CAV DATE	N/A
Uploading Date	07-12-2017
Transmission Date	07-12-2017

