

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.37140 of 2013

Arising Out of Case No. -3550 Year- 2012 Thana -SARAN COMPLAINT CASE District- SARAN

- =====
1. Ajay Kumar Son of Haribansh Prasad
 2. Sanjay Prasad Son of Haribansh Prasad
 3. Santosh Kumar @ Santosh Prasad Son of Haribansh Prasad
- All R/O Village - Maibi, P.S. - Bathnaha, District - Sitamarhi

.... Petitioner/s

Versus

1. State of Bihar
2. Jyoti Devi, Wife of Ajay Kumar, Daughter of Sri Vijay Chaudhary, R/O Village - Parsa, P.S. - Parsa, District - Saran

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr.

For the Opposite Party/s : Mr.

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CORAM: HONOURABLE MR. JUSTICE ARUN KUMAR

ORAL JUDGMENT

Date: 07-07-2017

Heard learned counsel for the parties.

2. The petitioners have challenged order dated 16.05.2013 passed by Judicial Magistrate, Sara in Tr. No. 4155 of 2013 arising out of Complaint Case No. 3550 of 2012 whereby he has taken cognizance under Sections 323, 341 and 498A of the Indian Penal Code.

3. Learned counsel for the petitioners submits that allegation of demand of dowry and torture in that connection is outrightly false. The complainant herself admits that it was second



marriage of the petitioner no. 1, as he was already married with another woman. Moreover, the reason for leaving the matrimonial home is mentioned in para-4 of the complaint petition charging her husband impotent she has left the matrimonial home. He submits that the complainant alleged that the petitioner no. 1 is impotent, therefore, marriage never consummated so this false case was lodged. The rest two petitioners are brothers of the husband of the complainant and no specific allegation is levelled against them relating to any demand of dowry or torture. He further submits that the father of the O.P. No. 2 received notice on behalf of the complainant but she never made appearance.

4. Having considered the aforesaid submissions and on perusal of record, I find that main grudge of the complainant is that petitioner no. 1 suppressing the fact of his first marriage solemnized second marriage with the complainant, secondly, that the husband of the complainant is impotent. There is no allegation in the complaint of making demand of dowry for marriage so demand of a car after marriage in particular in case of second marriage appears improbable. So this complaint appears to have been filed in order to wreck vengeance against the petitioners for getting married despite the husband being impotent so *prima face* no case of demand of dowry and torture is made out. The reason of matrimonial discord appears



something different, as stated above.

5. So for the aforesaid reasons, the order taking cognizance dated 16.05.2013 passed in Tr. No. 4155 of 2013 arising out of Complaint Case No. 3550 of 2012 and subsequent criminal proceeding in this case is set aside.

6. This petition stands allowed.

(Arun Kumar, J)

Sujit/-

AFR/NAFR	NAFR
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