

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.20261 of 2015

Arising Out of PS.Case No. -3490 Year- 2010 Thana -PATNA COMPLAINT CASE District-
PATNA

- =====
1. Kailash Pati Sah, son of Shri Jagatpati Sah,
 2. Jagat Pati Sah, son of late Khir Sah,
 3. Saroj Devi, wife of Shri Jagatpati Sah, all are residents of village - Panchveer,
Police Station - Shahpur Kamal, District - Begusarai, present address C/o Puran,
C-179, Jhilmil Colony, Sahadra, Delhi - 95.

.... Petitioner/s

Versus

1. The State of Bihar.,
2. Kumari Versha @ Neha Kumari, wife of Kailash Pati Sah, daughter of Baijnath
Sah, resident of Block No. 29, Flat No, 226, Bahadurpur Gumti, Near Durga
Mandir, Police Station - Kadamkuan, District - Patna.

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Arbind Kumar, Advocate

For the Opposite Party/s : Mr. APP

Mr. Shashi Bhushan Prasad, Advocate

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CORAM: HONOURABLE MR. JUSTICE SANJAY PRIYA

ORAL JUDGMENT

Date: 09-04-2018

This application under Section 482 of the Code of Criminal Procedure has been filed for quashing the order dated 27.11.2014 passed by the Sub-Divisional Judicial Magistrate, Patna, in Complaint Case No.3490 of 2010 by which the learned Magistrate has dismissed the discharge petition filed by the petitioners for their discharge.

By order dated 09.03.2018, petitioner no.1 and Opposite Party No.2 was directed to be present in Chambers today.

Today, Petitioner no.1 and Opposite Party No.2 are



present in Chambers.

After talking with husband (petitioner no1.) and the wife (Opposite Party No.2), it appears that both are living separate since 20.11.2010.

Heard learned counsel for the petitioners and the learned APP for the State as well as counsel for the Opposite Party No.2.

It is submitted by the Opposite Party No.2 that the petitioner has affairs with some other girl, who is living with him, and a child has also born from that girl.

Husband has, however, denied all these allegations.

Counsel for the petitioners has pointed out the impugned order, wherein, it is mentioned, in detail, by the Court below that earlier also attempts were made by the Court below for settlement of dispute, but it has failed.

Counsel for the Opposite Party No.2 has submitted that the petitioner no.1 has filed Divorce case against the Opposite Party No.2 vide HMA Case No.1064 of 2017, which is pending before the Principal Judge, Family Court, Bishwas Nagar, New Delhi. Husband has not denied such submission made by the counsel for the Opposite Party No.2.

It appears that there is allegation and counter allegation by both the parties.



In the Complaint Petition, there is allegation of committing physical and mental torture by these petitioners for demand of dowry and also during pregnancy of the Complainant. It is also admitted position that the Complainant is residing separate along with her son.

The counsel for the petitioners has submitted that petitioners tried several times to take the Complainant, but she was not ready for the same. Husband has filed petition for restitution of conjugal rights. Thereafter, he filed Divorce case as the wife was not ready to live with him. He is living separate with his parents.

There is specific allegation of committing physical and mental torture with the Complainant against all the petitioners.

In view of such, this Court does not find any illegality in the impugned order.

The application is, accordingly, **dismissed**.

The Court below is directed to proceed with the trial in accordance with law.

Liberty is given to the petitioners, if so advised, to make prayer before the Court below that they will keep the Complainant with full dignity and care and, in that event, the Court below will pass appropriate order in accordance with law after calling both the parties.



The Court below will also make efforts for amicable settlement of dispute between the parties and in the event, the Court below succeeds, the Court below will make effort to dispose of the case expeditiously on the basis of compromise, preferably, within a period of six months from the date of entering into compromise between the parties.

(Sanjay Priya, J)

J.Alam/-

AFR/NAFR	NAFR
CAV DATE	N/A
Uploading Date	11-04-2018
Transmission Date	11-04-2018

