

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.30566 of 2013

Arising Out of PS.Case No. -160 Year- 2005 Thana -BUXAR District- BUXAR

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1. Manu Prajapati S/O Sri Kishun Prajapati Resident Of Village- Bharauli, P.S.- Narhi, District- Balia (U.P.)

.... Petitioner/s

Versus

1. The State Of Bihar
2. Manorma Devi W/O Manu Prajapati Resident Of Village- Bharauli, P.S.- Narhi, District- Balia (U.P.), At Present Mohalla Nai Bazar, P.S.- Buxar (Town), District- Buxar

.... Opposite Party/s

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Appearance :

For the Petitioner : Mr. Amit Shankar, Adv.

For the State : Mr. Ataur Rahman, APP.

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CORAM: HONOURABLE MR. JUSTICE SANJAY PRIYA

ORAL JUDGMENT

Date: 23-01-2018

Heard learned counsel for the petitioner and the State.

This petition has been filed for quashing the order dated 01-06-2013 passed by learned A.D.J. Ist Buxar in Sessions Trial No. 206 of 2011 by which, the learned Sessions Judge, rejected the application filed by the petitioner u/S 227 Cr. P.C.

Counsel for the petitioner has submitted that the informant was not living with him during the period of occurrence as mentioned in the complaint petition. The complainant has mentioned in the complaint petition that the occurrence has taken place between 17-01-2005 to 22-07-2005. Counsel for the petitioner has pointed out towards Annexure-2 which is another case filed by the complainant of this case bearing Maintenance Case No. 22(M) of 2007 wherein the complainant has stated that she is living in her Maikie since 22-01-2005. The court below has passed final order dated 24-06-2008 in aforesaid Maintenance



Case No. 22(M) of 2007 by which, the maintenance case filed by the complainant was dismissed.

The aforesaid order of the Principal Judge, Family Court, Buxar was challenged in this Hon'ble Court and the same was set aside by order dated 20-11-2008 passed in Civil Revision No. 1309 of 2008. The court below was directed to pass fresh order in accordance with law within a period of six months from the date of receipt/production of a copy of this order.

Counsel for the petitioner has submitted that subsequently, the aforesaid maintenance case was dismissed as withdrawn on the basis of compromise entered into between the parties outside the court.

The court below has mentioned in the impugned order that at the time of framing of charge, the court is required to see sufficient grounds for proceeding in the case. At this stage, the court below is not required to enter into any roving enquiry into the pros and cons of the matter and weigh the evidence as is done in the trial.

Learned counsel for opposite party No. 2 has appeared. He has submitted that after withdrawal of the aforesaid Maintenance Case No. 22(M) of 2007, the defence of the petitioner as argued today in the court that the complainant was living in her Maikie since 22-07-2005 can be adjudicated only after proper trial. Counsel for opposite party No. 2 has submitted that other cases have already been disposed off on the basis of compromise filed by opposite party No. 2.

This court is of the view that submission made by the petitioner on the basis of Annexure-2 that she was not living with the petitioner on the alleged date of occurrence is a matter which can only be properly looked into and adjudicated after proper trial on the basis of evidence.



Therefore, this court does not find any illegality in the impugned order dated 01-06-2013 by which, the learned Sessions Judge has rejected the discharge petition filed by the petitioner u/S 227 Cr. P.C.

Accordingly, this quashing petition is dismissed.

The court below is directed to frame charge against the petitioner and proceed in the trial in accordance with law.

(Sanjay Priya, J)

A.K.V./-

AFR/NAFR	AFR
CAV DATE	N/A
Uploading Date	30-01-2018
Transmission Date	30-01-2018

