

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.47837 of 2014

Arising Out of PS.Case No. -1572 Year- 2008 Thana -GOPALGANJ COMPLAINT CASE District-
GOPALGANJ

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1. Rajbanshi Yadav
2. Banarsi Yadav
3. Ramashankar Yadav @ Shankar Yadav
All sons of Bijli Yadav, r/v- Barba Tola, P.S.-Baghauch Ghat, District-
Kushinagar (U.P.)

.... Petitioner/s

Versus

State of Bihar & Anr

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Naresh Dikshit
For the Opposite Party/s : Sanjay Kumar Pandey No. 5
For the State : Mr. Rabindra Kumar (App)

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CORAM: HONOURABLE MR. JUSTICE SANJAY PRIYA
ORAL ORDER

7 17-07-2018 Heard the learned counsel for the petitioners and the

State.

The petitioners have filed this petition seeking quashing of the order dated 11.02.2010 passed by the learned Judicial Magistrate, Gopalganj in Trial No. 896/2014, arising out of Complaint Case No. 1572/2008, whereby and whereunder cognizance has been taken against the petitioners.

Learned counsel for the petitioners submits that the petitioner no. 1/husband is always ready to keep his wife/O.P. No. 2. He has stated that earlier she had filed a case vide G.R. No. 1207/2013, Trial No. 666/2008, which ended in acquittal of the petitioners and other accused persons.



Learned counsel for the O.P. No. 2 submits that the case ended in acquittal because compromise had taken place between the parties. He has pointed out the aforesaid judgment which is annexed as Annexure-2 to the present petition, in which it has been mentioned that the complainant has never been tortured for demand of dowry and due to some family dispute, she had filed case. She is happily living with the petitioners. It has further been submitted that after acquittal in that case, the petitioners again committed torture and is not maintaining the complainant/O.P. No. 2 and her children, who are living with her.

This Court does not find any illegality in the impugned order with regard to petitioner no. 1. Accordingly, the quashing petition with regard to petitioner no. 1 is dismissed.

The court below will proceed in the case against petitioner no. 1 in accordance with law.

So far as petitioner nos. 2 and 3 are concerned, they are elder brothers of petitioner no. 1. There is no specific allegation of overt act against them. They have no criminal antecedent. Therefore, the impugned order with regard to petitioner nos. 2 and 3 is illegal. Accordingly, the impugned order with regard to petitioner nos. 2 and 3 along with entire criminal proceeding is quashed.



It is observed that in the event, petitioner no. 1 (husband) offers complainant/O.P. No. 2 to keep her with full dignity and O.P. No. 2 becomes ready to go with petitioners, the court below will pass appropriate order in accordance with law without being prejudiced by this order and will make all efforts that both parties start living together.

This Criminal Miscellaneous is accordingly disposed of.

(Sanjay Priya, J.)

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