

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.30762 of 2016

Arising Out of PS. Case No.-1066 Year-2010 Thana- MUZFFARPUR COMPLAINT CASE
District- Muzaffarpur

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Chinta Devi Wife of Shankar Dayal sah @ Shankar Dayal Sao Resident of
Village- Mahanth Maniyari , P.S. - Maniyari, District-Muzaffarpur

... .. Petitioner/s

Versus

1. The State Of Bihar
2. Rinku Devi wife of Jai Prakash sah Resident of Village- Mahanth Maniyari,
P.S. - Maniyari, Distt- Muzaffarpur Presently residing with her Father
Shivjee Sah at village- Hari Shankar Maniyari, P.S.- Maniyari, District-
Muzaffar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr.Hari Kishore Thakur, Advocate
For the Opposite Party/s : Smt. Sucheta Yadav, APP

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CORAM: HONOURABLE MR. JUSTICE BIRENDRA KUMAR

ORAL JUDGMENT

Date : 06-12-2019

The petitioner has sought for quashment of order dated 10.07.2015 passed in Trial No.1548 of 2014, arising out of Complaint Case No.1066 of 2010 whereby the learned Sub-Divisional Judicial Magistrate, West, Muzaffarpur, has refused to discharge the petitioner for the offences under Section 498A of the Indian Penal Code and Section 4 of the Dowry Prohibition Act.

2. Heard learned counsel for the petitioner as well as learned Additional Public Prosecutor for the State and learned counsel for Opposite Party No.2.



3. The case of the complainant is that she was married to the son of the petitioner on 15.06.2005. A child born in the year 2007 but she was not treated well in the family and was tortured for demand of dowry and, thereafter, she was ousted from the matrimonial house.

4. Submission of learned counsel for the petitioner is that similar prayer of the husband of the petitioner was allowed by a coordinate Bench of this Court in Cr. Misc. No.37128 of 2014 on 07.04.2016, a copy at Annexure-6.

5. A perusal of Annexure-6 would reveal that the Court had quashed the proceeding by observing as follows:

“Having considered the relationship of the petitioner and the duration of marriage, the proceeding including the order of discharge dated 02.07.2014 passed by the Sub-Divisional Judicial Magistrate, West, Muzaffarpur, in Trial No.1548 of 2014 arising out of Complaint Case No.1066 of 2010 is, hereby, set aside so far as the petitioner is concerned.”

6. Learned counsel for the complainant opposed the prayer on the ground that the petitioner was residing at Kolkata which would be evident from the statement in paragraphs 11 and 12 of the petition. Hence, the case is distinguishable from her



husband. In paragraphs 11 and 12 the petitioner has stated as follows:

“11. It is humbly stated that petitioner is settled at Kolkata since last 30 years and she is living with her husband and other sons and husband of complainant is residing at village home and he is doing agricultural work here and petitioner has got no concern with the husband of complainant and only because of Jai Prakash Saw she has been made accused in this case without any fault on her part.

12. It is humbly stated that petitioner is voter of Bangal (Howrah) from 1995 and she has got her residence there and her business in Municipal area Howrah, she is having Ration Card of West Bengal she is paying electricity bill there she has got shop rent receipt she is having all type of the documents in proof of her settlement there with her husband and other sons.”

7. It is true that plea of alibi cannot be considered for quashing the order of discharge. However, since on identical allegation the husband of this petitioner has been discharged



vide Annexure-6. There is no reason to refuse same relief to the petitioner. Hence, the impugned order and entire subsequent proceeding arising out of the impugned order against the petitioner is hereby quashed and this application is allowed.

(Birendra Kumar, J)

Mkr./-

AFR/NAFR	NAFR
CAV DATE	NA
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