

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No. 51589 of 2014

Arising Out of Complaint Case No.-795 C Year-2012 Thana- PATNA COMPLAINT CASE
District- Patna

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1. Sabita Devi, Wife of Raghubir Paswan, resident of Village - Powari, P.S. Harnaut, District – Nalanda.
 2. Shobha Devi Wife of Rajeshwar Paswan, resident of Village - Tetrama, P.S. Pawapuri, District – Nalanda.
 3. Laugi Devi @ Langiya Devi wife of Uttam Paswan.
 4. Uttam Paswan Son of Late Sital Paswan.
 5. Nitish Paswan Son of Uttam Paswan.
 6. Raj Kumar Paswan @ Raju Kumar Son of Uttam Paswan. All resident of Village - Chanda, P.S. Athmalgola, District – Patna.
 7. Rajni Kumari Daughter of Nandu Pawan.
 8. Nandu Paswan Son of Late Ganauri Paswan, Both resident of Village - Malahi Kalisthan, P.S. Barh, District – Patna.

... .. Petitioner/s

Versus

1. The State of Bihar
2. Rinku Devi wife of Ranjit Paswan, resident of Village - Chanda, P.S. Athmalgola, District - Patna, at present resident of Village - Bhatgawan, P.S. Barh, District – Patna.
3. Senior Superintendent of Police, Patna.

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. Pramod Kumar Sinha, Advocate
For the Opposite Party/s	:	None
For the State	:	Mr. Jharkhandi Upadhyay, A.P.P.

CORAM: HONOURABLE MR. JUSTICE AHSANUDDIN
AMANULLAH

ORAL JUDGMENT

Date : 12-03-2019

Heard learned counsel for the petitioners and learned
A.P.P. for the State.

2. Pursuant to order dated 22.02.2019, the opposite
party no. 2 is present in Court along with a lady police officer.



3. The petitioners have moved the Court under Section 482 of the Code of Criminal Procedure, 1973 for the following relief:

“That this an application is being filed for quashing the order dated 13.06.2013 where under where by the learned S.D.J.M. Barh has been pleased to take cognizance in complaint case No. 795C/2012 under sections 498(A), 494 of the Indian Penal Code and under sections 3/4 of the D.P. Act against the petitioners.”

4. On 22.02.2019, the Court had recorded the following:

“3. From the complaint of the opposite party no. 2, prima facie, the Court feels that her pain in the matrimonial home, which she has suffered for the last 15 years is very apparent. It is not denied that there was no child born out of the wedlock and, thus, the allegation that she was taunted as a barren cannot be disputed and rather appears to be highly probable. At this juncture, there is also no denial on the part of the petitioners that the husband of the opposite party no. 2 has now divorced the opposite party no. 2 or that he has not married the petitioner no. 7. The other factor the Court deems appropriate to take into consideration is the mental torture suffered by the opposite party no. 2 for long 15 years when she was in the matrimonial home, of having to face the taunt of all the family members for there being no offspring born.

4. At this juncture, learned counsel for the petitioners submitted that the case be adjourned for some time so that he may take instructions from the petitioners with regard to what they proposed by way of compensation to the opposite party no. 2 for the harassment she has suffered and is still suffering as she does not have the care and protection of her husband or matrimonial home and is rather living at her parent's home without any independent support from any quarter.



5. The Court also deems it appropriate to direct the Senior Superintendent of Police, Patna to ensure that the opposite party no. 2 is brought before the Court, accompanied by a lady police officer, when the matter be listed under the heading 'For Orders' on 12th March, 2019."

4. From the aforesaid, it is clear that the Court had required the opposite party no. 2 to be present and had also given opportunity to learned counsel for the petitioners to take instructions as to how the opposite party no. 2 could be compensated for suffering harassment, moreso the taunt by the relatives of her husband that is, the petitioners, for not being able to bear child.

5. Today, learned counsel for the petitioners submitted that they are ready to take back the opposite party no. 2 in the matrimonial home.

6. At this juncture, on a query of the Court to the opposite party no. 2, with regard to such stand, she submitted that once there was a second wife, for all practical purposes, the doors of the matrimonial home have been shut for her for the reason that she would not only be maltreated and not given the due position of the wife, shall also be under constant mental harassment by the husband and all his relatives, including the petitioners for the basic issue of not having borne a child.



7. In view of the aforesaid, the Court proposed to proceed and hear the matter on merits.

8. However, learned counsel for the petitioners submitted that he may be permitted to withdraw the application with liberty to move before the Court below itself at the appropriate stage.

9. In view thereof, the application stands disposed off as withdrawn with liberty aforesaid.

10. The officers, who have brought the opposite party no. 2 from her home are directed to ensure that she is safely returned to her home from where she was brought to the Court today.

(Ahsanuddin Amanullah, J.)

P. Kumar

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