

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No. 52853 of 2013

Arising Out of Complaint Case No.-191 Year-2012 Thana- AURANGABAD COMPLAINT
CASE District- Aurangabad

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1. Ashok Yadav @ Ashok Kumar, Son of Lakhan Yadav Resident of Village- Gawaspur, P.S.- Haspura, District- Aurangabad.
 2. Lakhan Yadav, Son of Late Atwar Yadav Resident of Village- Gawaspur, P.S.- Haspura, District- Aurangabad.
 3. Parwatiya Devi, Wife of Lakhan Yadav, Resident of Village- Gawaspur, P.S.- Haspura, District- Aurangabad.
 4. Basant Yadav @ Basant Kumar, Son of Lakhan Yadav, Resident of Village- Gawaspur, P.S.- Haspura, District- Aurangabad.
 5. Mandal Yadav, Son of Lakhan Yadav, Resident of Village- Gawaspur, P.S.- Haspura, District- Aurangabad.

... .. Petitioner/s

Versus

1. The State of Bihar
2. Amita Devi, Daughter of Krishana Datt, Present Husband Mahesh Singh, Resident of Village- Gopal Bigha, P.S.- Arwal, District- Arwal.

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. Ram Chandra Singh, Mr. Lal Bahadur Singh and Mr. Raj Kishore Prasad, Advocates
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. The petitioners have moved the Court under Section
482 of the Code of Criminal Procedure, 1973 for the following
relief:



“That this is an application for quashing the order dated 29.06.2012 passed by the learned Sub-Divisional Judicial Magistrate, Daudnager, Aurangabad in connection with complaint case 191 of 2012 by which the cognizance taken for the offence under Section 498 (A) of the Indian Penal Code were taken against the petitioners.”

3. Initially, upon notice having been issued and served validly, the opposite party no. 2, who claims to be the wife of petitioner no. 1, chose not to appear before the Court. Since the allegation was that the opposite party no. 2 was being tortured for dowry and more importantly, there was a girl child born out of the alleged wedlock between the petitioner no. 1 and opposite party no. 2, the Court had directed for conducting of D.N.A. test on the girl to establish as to whether she was the biological daughter of petitioner no. 1. Though the petitioner no. 1 had agreed to the same, but it was reported to the Court that the opposite party no. 2 had declined to get the D.N.A. test done. The Court not being fully convinced as to whether the opposite party no. 2 out of her own free will and without any duress or coercion had refused for D.N.A. test on her daughter, had directed the Superintendent of Police, Arwal to ensure that the opposite party no. 2 was present in Court today along with a lady police officer.

4. In terms of the order, she is present before the Court. Mr. Jharkhandi Upadhyay, learned A.P.P. submitted that under



sealed cover, a C.D. has also been sent with regard to the statement of the opposite party no. 2 relating to her stand of not getting D.N.A. test on her daughter which has been recorded by the local police. Let the same be kept on record.

5. In open Court, on a direct query of the Court to the opposite party no. 2 as to why she had declined for D.N.A. test on her daughter when the same could have established the paternity and if what has been alleged by her was correct i.e., the petitioner no. 1 was the father then, the Court could have ensured that the child did not suffer from the dispute between her parents; to this, the opposite party no. 2 categorically submitted before the Court that she does not want to pursue the case and also does not want the D.N.A. test of her daughter. She submitted that due to wrong advice and being misguided by certain elements, she had lodged the present case and having realized her mistake, she does not want to pursue the matter any further. On a further query of the Court as to whether she would object to the case being quashed, she stated that she had no objection. The Court further asked her as to whether she was under any pressure not to press the case or go for D.N.A. test of her daughter, she submitted that there was no pressure on her and what she had stated before the Court was on her own free will and accord.



6. From the aforesaid, once the opposite party no. 2, who had filed the complaint, herself has appeared and expressed her desire, in unambiguous terms, that she had lodged the case on being misguided by certain elements and that she no more wants to pursue the matter, the Court finds that it is a fit case to interfere under Section 482 of the Code for preventing the abuse of the process of the Court and for securing the ends of justice.

7. Accordingly, the application is allowed. The entire criminal proceeding arising out of Complaint Case No. 191 of 2012, including the order dated 29.06.2012 by which cognizance has been taken stand quashed.

8. The lady officer, who has brought the opposite party no. 2 will ensure that she safely reaches her home from where she was brought to the Court today.

(Ahsanuddin Amanullah, J.)

P. Kumar

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