

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.48260 of 2013

Arising Out of PS. Case No.-2 Year-2013 Thana- DOMESTIC VIOLENCE District- East
Champaran

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1. Ragini Ojha Daughter Of Rama Kant Ojha
 2. Rakesh Kumar Son of Rama Kant Ojha
 3. Brijmati Ojha Wife Of Ramakant Ojha
 4. Rama Kant Ojha Son Of Ramgyan Ojha
All Resident Of Village- Phulwaria, Police Station Manjha Godh
(Gopalganj) in the District of Gopalganj.
 5. Neha Tiwari Wife Of Nitesh Tiwary Resident Of Village - Gausia, Police
Station - Gopalganj in the District of Gopalganj.

... .. Petitioner/s

Versus

1. State Of Bihar
2. Aakansha Priya Wife Of Rakesh Kumar and Daughter of Sri Krishna Murari
Mishra Resident of Ekauna Chandmari, Motihari, East Champaran.

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr.Ramakant Sharma, Sr.Adv
	:	Mr.Dwivedy Surendra, Adv
For the O.P. No.2	:	Mr. Uma Kant Shukla, Adv
	:	Mr. Rajesh Ranjan, Adv
	:	Mr. Atul Shankar, Adv
For the State	:	Mr.Sunil Kumar Pandey, APP

CORAM: HONOURABLE MR. JUSTICE BIRENDRA KUMAR
ORAL JUDGMENT

Date : 04-07-2019

Heard learned counsel for the parties.

2. The petitioners have been arrayed as respondents by opposite party No.2 in Domestic Violence Case No.02 of 2013 brought under Section 9(b) and 37(2)(c) of the protection of Women of Domestic Violence Act in the court of learned Judicial Magistrate, Motihari. Prayer is for quashment of the said proceeding.



3. Prayer is on the ground that petitioner No.1 is unmarried sister-in-law studying in M.Tec. at Bangalore. Petitioner No.2 is mother-in-law, petitioner No.3 is husband of the complainant and petitioner No.4 is father-in-law of the complainant, who is 40% disabled. Petitioner No.5 is married sister-in-law of the complainant.

4. Contention is that the grievance of opposite party No.2 would be against her husband only and husband is residing in Canada. Therefore, the proceeding under Domestic Violence Act against the petitioners is abuse of the process of the court.

5. The “aggrieved person” defined under Section 2(a) of the Domestic Violence Act includes any women in a domestic relationship with the respondent against whom she can bring matter before the court alleging domestic violence committed by them. Section 2(f) defines “domestic relationship” as relationship between two person who live or have, at any point of time, lived together in a shared household, when they are related by consanguinity, or by marriage, or by relationship in nature of marriage, adoption or other family members living together as a joint family.

6. Whether the petitioners of this case are living together or had live together with the opposite party No.2 would



be considered only after evidence during the proceeding and not at the threshold of the proceeding. Section 2(q) defines “respondents” means any adult **male person**, who is or has been in a domestic relationship with the aggrieved person and against whom the aggrieved person has sought any relief under this Act. Provided that an aggrieved wife or female living in a relationship in the nature of marriage, may also file a complaint against a relative of the husband or the male partner.

7. The aforesaid definition makes it clear that only adult male can be arrayed as respondent against whom the aggrieved person has any grievance raised in the case. Therefore, proceeding against petitioner-Ragini Ojha, petitioner-Brijmati Ojha and petitioner-Neha Tiwari in connection with Domestic Violence Case No.02 of 2013 stands quashed because the definition does not require a female to be arrayed as respondent. Against rest of the petitioners, the proceeding would go on.

8. With the aforesaid observation, this application is partly allowed and party dismissed.

(Birendra Kumar, J)

Nitesh/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	06.07.2019
Transmission Date	06.07.2019

