

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.50372 of 2015

Arising Out of PS. Case No.-57 Year-2012 Thana- BELSAND District- Sitamarhi

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1. Manoj Gupta, son of late Dhrub Prasad Gupta.
 2. Kiran Gupta, wife of Manoj Gupta
 3. Santosh kumar Gupta @ Santosh Gupta, S/o late Dhrub Prasad Gupta.
All originally resident of Mohalla Bara Bazar, P.S. and district-
Darbhanga, presently residing at Mohalla-Sagarpur, Janakpuri, P.S.-
Janakpuri (New Delhi).

... .. Petitioners

Versus

1. State of Bihar
2. Kanchan Gupta, W/o Sri Santosh Gupta, resident of Bara Bazar, P.S. and
District-Darbhanga, presently residing at Village Belsand, P.S- Belsand,
District Sitamarhi.

... .. Opposite Parties

Appearance :

For the Petitioners	:	Mr. Kameshwar Prasad Gupta, Advocate
For the Opposite Party	:	Mr. Indra Kr. Singh, APP

CORAM: HONOURABLE MR. JUSTICE SANDEEP KUMAR
ORAL ORDER

- 3 26-04-2023 This application has been filed for quashing of the

order dated 16.08.2014 passed by learned Judicial Magistrate,

1st Class, Sitamarhi, in Belsand P.S. Case No. 57 of 2012, by

which learned Magistrate has taken cognizance against the

petitioners under Sections 323, 341, 342, 504, 506, 498-A/34 of

the Indian Penal Code and under Section 3/4 of the Dowry

Prohibition Act besides under Section 3(ka), (kha) and (ga) of

the Domestic Violence Act and also the order dated 28.08.2015

passed by learned S.D.J.M., Sadar, Sitamarhi, by which the



discharge application filed by the petitioners has been rejected.

The prosecution case is that the marriage of the informant was solemnized with the petitioner no.1 in the year 2008. Out of their wedlock, one daughter was born. It is alleged that after the birth of the child, all the accused persons started demanding Rs.50,000/- from the informant. On account of non-fulfillment of aforesaid demand, the accused persons ousted the informant from the house.

None appears for the opposite party no.2. It has been by learned counsel for the petitioners that on earlier occasion also, learned counsel for the opposite party no.2 had not appeared in the matter.

It has been brought on record by learned counsel for the petitioner that the petitioner was granted decree of divorce *ex parte* after the opposite party no.2 left *pairvi* in the divorce proceeding. The application filed under Order 9 Rule 13 of C.P.C. for setting aside the ex parte judgment of divorce has also been dismissed by the Family Court. The present F.I.R. has been filed on 13.06.2012 i.e. much after filing of the divorce case. It seems that the opposite party no.2 is harassing the petitioner and the present F.I.R. is a counter blast of the divorce case filed by the petitioner no.1.



Considering the aforesaid facts, in the opinion of this Court, no useful purpose would be served by prosecuting the petitioners once the divorce has become final and parties have parted ways.

In such view of the matter, this application is allowed. Accordingly, Belsand P.S. Case No. 57 of 2012 and all consequential proceedings arising out of the aforesaid F.I.R. including the order dated 16.08.2014 passed by learned Judicial Magistrate, 1st Class, Sitamarhi, by which cognizance has been taken against the petitioner and the order dated 28.08.2015 passed by learned S.D.J.M., Sadar, Sitamarhi, by which the discharge application of the petitioner has been rejected are hereby quashed in the interest of justice.

(Sandeep Kumar, J)

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