

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.19758 of 2015

Arising Out of PS. Case No.-222 Year-2009 Thana- KANKARBAG District- Patna

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1. Upendra Sahay @ Bachulal and Ors S/o Late Shahdeo Sahay
 2. Kaushalya Devi, Wife of Upendra Sahay
 3. Raju Ranjan Sahay @ Ranjan Sahay Son of Upendra Sahay
 4. Rabikant @ Ravi Sahay Son of Upendra Sahay
All resident of Mohalla Daudnagar Old Town, P.S. Daud Nagar, District-
Aurangabd
 5. Ragini Sinha D/o Upendra Sahay & W/O Anant Kr. Singh resident of
Village- Sukha Roja, P.S. Sasaram, District- Rohtas at Sasaram.
 6. Anant Kumar Sinha Son of Late Gunendra Lal, resident of Village- Sukha
Roja, P.S. Sasaram, District- Rohtas at Sasaram.

... .. Petitioner/s

Versus

1. The State Of Bihar.
2. Snighdha Srivastav wife of Ashok Kumar Srivastava, resident of rajpal
Bhawan, Indira Nagar, Road No. -3 Postal Park, Patna, P.S. Jakkanpur,
District- Patna

... .. Opposite Party/s

with

CRIMINAL MISCELLANEOUS No. 21779 of 2015

Arising Out of PS. Case No.-222 Year-2009 Thana- KANKARBAG District- Patna

Ashok Kumar Srivastava S/o Late Jagdish Narayan Srivastava, R/o vill.-
Kathi, P.S.- Nasiriganj, District- Rohtas at Sasaram, resides presently C/o Late
Ambika Prasad house owner, Mohalla- Chandwari Road, South Tarkeshwar
Path, P.S.- Kankarbagh, District- Patna

... .. Petitioner/s

Versus

1. The State Of Bihar.
2. Snighdha Srivastava, W/o Ashok Kumar Srivastava, resident of Rajpal
Bhawan, Indira Nagar, Road No. 3, Postal Park, Patna, P.S.- Jakkanpur,
District- Patna

... .. Opposite Party/s

Appearance :

(In CRIMINAL MISCELLANEOUS No. 19758 of 2015)

For the Petitioner/s : Mr. Nawal Kishore Singh, Advocate

For the Opposite Party/s : Mr. Prem Kr.Jha, APP

For the informant : Mr. Vijay Kumar Sinha, Advocate

(In CRIMINAL MISCELLANEOUS No. 21779 of 2015)

For the Petitioner/s : Mr. Nawal Kishore Singh, Advocate



For the Opposite Party/s : Mr. Smt.Veena Kumari Jaiswal, APP
For the informant : Mr. Vijay Kumar Sinha, Advocate

CORAM: HONOURABLE MR. JUSTICE RAJIV ROY
ORAL ORDER

5 14-02-2023 Learned counsel for the petitioners submit that during the pendency of the present petition, petitioner no.1 and 2 have died and accordingly the same has become infructuous against them.

Heard learned counsel for the petitioners, the learned APP for the State and learned counsel for the informant.

The petitioners in Cr. Misc. No.19758 of 2015 are the brother-in-laws and sister-in-law of the informant, the petitioner no.1 and 2 who were cousin father-in-law and mother-in-law respectively are now no more.

The informant alleged in the FIR that she married the petitioner Ashok Kumar Srivastava (Cr. Misc. No.21779 of 2015) but was regularly tortured for dowry and once the accused persons connived and left the gas connection open and sent her to the kitchen. However, sensing trouble, she returned, was beaten and thrown out of the house.

Later on 05-08-2009, she was again called, went there where all the accused persons resorted to beating and thereafter she had no option but to leave the place. Accordingly, the FIR.

Learned counsel for the petitioners submit that



omnibus allegation have been levelled against these petitioners, they had absolutely no role to play in the matter. It was a marital discord between the husband and the wife in which they have been dragged in. The further submission is that the petitioner nos.3 and 4 are cousin brother-in-laws (Phuphera brothers of the husband) whereas petitioner no.5 is a sister-in-law (Phupheri sister of the husband) and petitioner no.6 is the cousin brother-in-law (Phuphera Bahnoi of the husband).

The further submission is that while the informant and her husband were resident of Nasriganj, Rohtas, the petitioners herein are resident of Daudnagar, Aurangabad and further only because after the death of the parents of the husband, Ashok Kumar Shrivastava the petitioner no.1 and 2 (since dead) took over as his guardian and that's why his family members have been dragged in this case.

Learned counsel for the informant on the other hand submit that though omnibus but allegation against these accused persons is/are of assault.

A coordinate bench of this Court while issuing notice to the opposite party no.2, on 08-05-2015 had stayed the further proceeding so far as these petitioners are concerned.

Taking into account the kind of allegation that has



come against these petitioners, they are cousin brother-in-laws and sister-in-law of the informant, are resident of different place in the district of Aurangabad which is away from the Rohtas district where the couple was residing, this Court is inclined to extend them relief sought for.

The order dated 02.04.2015 passed by learned S.D.J.M., Patna in G.R. No.4050 of 2009 arising out of Kankarbagh P.S. Case No.222 of 2009 under Section 498(A)/34 of the IPC and $\frac{3}{4}$ of the Dowry Prohibition Act, so far as these petitioners namely Raju Ranjan @ Ranjan Sahay, Rabikant @ Ravi Sahay, Ragini Sinha are concerned, the same is set aside. The Cr. Misc. No.19758 of 2015 is allowed.

Cr. Misc. No.21779 of 2015 (Ashok Kumar Srivastava Vs. The State of Bihar & Anr.)

The facts have already been dealt with in the aforesaid petition. The petitioner being the husband he cannot be exonerate himself from the charges that has come in the FIR against him and any alibi put forward by him cannot be accepted taking into account the fact that the lady has alleged that once the accused wanted to kill her, was thrown out of the house. Subsequent allegation is also against the husband that it was he who called her whereafter allegation is of beating, no



relief can be granted to the petitioner herein and his petition lacks merit.

The Cr. Misc. No.21779 of 2015 (Ashok Kumar Srivastava Vs. The State of Bihar & Anr.) is dismissed.

(Rajiv Roy, J)

Prakash Narayan /-

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