

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.25692 of 2015

Arising Out of PS. Case No.-50 Year-2012 Thana- ISHAKCHAK District- Bhagalpur

1. Kaushal Kishore Sharma S/o Late Shivnandan, R/o Kalighat Sarai, P.S. Tatarpur, District Bhagalpur.
2. Bhuwaneshwar Sharma, S/o Late Mahadeo Sharma,
3. Abhishek Kumar S/o Bhuwaneshwar Sharma
4. Ahilya Devi, W/o Abhishek Sharma
5. Shweta Kumari, D/o Bhuwaneshwar Sharma. Petitioner No. 2 to 5 are R/o Village- Lauwa Lagan, P.S. Chausa Udakishunganj, District Madhepura.
6. Mamta Kumari, W/o Bhupendra Sharma, D/o Bhuwaneshwar Sharma, R/o Gopalpur Patti, P.S. Udakishunganj, District Madhepura.

... .. Petitioner/s

Versus

1. The State of Bihar.
2. Kanchan Bala, W/o Pranav Kumar Sudhanshu, D/o Shashank Bishwakarma, R/o Ishachak, Shyamal Das Lane, P.S. Ishachak, District Bhagalpur.

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. Jagannath Singh, Advocate
For the Opposite Party/s	:	Mr. J.Upadhyay, APP
For the informant	:	Mr. Rajesh Kumar, Advocate

CORAM: HONOURABLE MR. JUSTICE RAJIV ROY
ORAL ORDER

3 15-02-2023 Heard Mr. Jagannath Singh, learned counsel for the petitioners, Mr. Rajesh Kumar learned counsel for the informant as also learned APP for the State.

The petitioners sought for quashing of the order dated 22.04.2015 rejecting the petition for discharge under Section 239 of the Cr.P.C. passed by learned Sub-Divisional Judicial Magistrate, Bhagalpur, in connection with Ishachak P.S. Case No.50 of 2012.



As per the prosecution story, the lady Kanchan Bala (opposite party no.2) alleged that she was married to Pranav Kumar Sudhanshu in the year 2010 but was regular tortured for dowry as the accused persons wanted execution of land of her father at Bhagalpur. The further allegation was of illicit relationship with his 'Bhabhi'. On the fateful day on 04.07.2012 allegation is of abusing, trying to kill her and finally throwing her out of the house. Accordingly, the FIR.

Learned counsel for the petitioners submit that while the petitioner no.1 is the maternal father-in-law of the lady, the petitioner no.2, the father-in-law, the petitioner no.3 the brother-in-law. Likewise, petitioner no.4 is the mother-in-law and petitioner nos.5 and 6 the married sisters-in-law of the lady.

The further submission is that on 15.01.2016, the coordinate bench of this Court while issuing notice to the opposite party no.2 stayed the proceedings so far as petitioners no.1,3,5 and 6 namely Kaushal Kishore Sharma, Abhishek Kumar, Shweta Kumari and Mamta Kumari, but chose not to interfere so far as the petitioner no.2 father-in-law, petitioner no.4 mother-in-law are concerned.

Accordingly, the trial moved in which the PW.2, the lady Kanchan Bala (*wrongly inscribed as PW.3 in paragraph 9*)



stated that although she had filed the case due to domestic dispute, the same having been settled, she do not to support the prosecution theory.

Taking into account the aforesaid facts, the learned trial court in Trial No.2083 of 2018 passed an order on 30.01.2018 by which the father-in-law namely Bhuwaneshwar Sharma, the mother-in-law Ahilya Devi and the husband namely Pranav Kumar Sudhanshu were found not guilty of the charges and accordingly they were acquitted of the charges punishable under Section 498(A) I.P..C and 3/4 of the D.P. Act.

Learned counsel for the petitioners submit that when the husband, the mother-in-law and the father-in-law have been exonerated of the charges, what is left for the other co-accuseds who are maternal father-in-law, married sisters-in-law and a brother-in-law. He further submits that the lady havig herself not supporting the prosecution theory, the further proceeding in the matter would be nothing but an abuse of the process of law.

Taking into account the documents that has come in the supplementary affidavit by way of Annexure-11 (the order dated 30.01.2018) passed by learned Sub-Divisional Magistrate, Bhagalpur in Trial No.2083 of 2018, this Court is inclined to grant relief to the rest of the petitioners no.1,3,5 and 6 namely



Kaushal Kishore Sharma, Abhishek Kumar, Shweta Kumari and Mamta Kumari. The order dated 22.04.2015 by which discharge petition under Section 239 of the Cr.P.C. in connection with Ishachak P.S. Case No.50 of 2012 relating to petitioner nos.1,3,5 and 6 was rejected, is/are set aside.

The petition stands allowed.

I.A. No.820 of 2016

As the petition stands allowed, the I.A. No.820 too stands disposed of.

(Rajiv Roy, J)

Prakash Narayan /-

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