

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.18261 of 2015

Arising Out of PS. Case No.-1517 Year-2009 Thana- GAYA COMPLAINT CASE District-
Gaya

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1. Ajay Kumar son of Late Ram Chandra Prasad
2. Sanjay Kumar son of Late Ram Chandra Prasad
3. Sheo Shankar Prasad son of Late Mathura Prasad All resident of village-
Akbarpur, P.S. Akbarpur, District- Nawada
- Petitioner/s
- Versus
1. State Of Bihar
2. Poonam Devi W/o Ajay Kumar, resident of Mohalla Bich Bazar, Akbarpur,
P.S. Akbarpur, District Gaya, at present d/o Madhusudan Prasad, resident of
Mohalla- K.P. Road, Purani Godam, P.S.- Kotwali, District- Gaya
- Opposite Party/s

with
CRIMINAL MISCELLANEOUS No. 21091 of 2013

Arising Out of PS. Case No.-1517 Year-2009 Thana- GAYA COMPLAINT CASE District-
Gaya

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1. Abhay Kumar S/O Ram Chandra Prasad R/O Village- Akbarpur, Police
Station- Akbarpur, District- Nawada
2. Pragya Parinita W/O Abhay Kumar R/O Village- Akbarpur, Police Station-
Akbarpur, District- Nawada
- Petitioner/s
- Versus
1. State Of Bihar
2. Poonam Devi W/O Ajay Kumar R/O Mohalla- Bich Bazar, Akbarpur, Police
Station- Akbarpur, District Gaya, At Present D/O Madhusudan Prasad, R/O
Mohalla- K.P. Road, Purani Godam, Police Station- Kotwali, District Gaya
- Opposite Party/s

Appearance :

(In CRIMINAL MISCELLANEOUS No. 18261 of 2015)
For the Petitioner/s : Mr. Sanjeev Ranjan, Advocate
For the Opposite Party/s : Mr.J.Upadhyay, APP
(In CRIMINAL MISCELLANEOUS No. 21091 of 2013)
For the Petitioner/s : Mr.Sanjeev Ranjan
For the Opposite Party/s : Mr.Ajay Kumar -2 APP

CORAM: HONOURABLE MR. JUSTICE SANDEEP KUMAR
ORAL ORDER

15 05-04-2023

Heard learned counsel for the petitioners, learned



opposite party no. 2 and learned APP for the State.

This application has been filed for quashing of order dated 20.05.2014 passed by learned Judicial Magistrate-1st Class, Gaya in Complaint Case No. 1517 of 2009 by which learned Magistrate has given direction for framing of charges against the petitioners registered for the offences under Section 498A and 494 of the Indian Penal Code.

Prosecution story in short is that the marriage of the complainant was consummated with petitioner no.1 as per Hindu Rites and Custom on 11.07.2005. At the time marriage sufficient dowry was given, thereafter petitioner no. 1 started to make demand of Rs. 1 Lakh and one Hero Honda Motor Cycle. When their demand could not be fulfilled, the accused persons started torturing her. When the father and the brother of the complainant came to see her, the accused persons did not allow them to meet her until their demand was met and they were pushed out. In these circumstances, father of the complainant filed a complaint bearing Complaint Case No. 1465 of 2005 in the Court below and the said case was sent to the police for investigation and accordingly Akbarpur P.S. Case No. 110 of 2005 was registered against the petitioners. The accused persons got the statement of victim recorded under Section 164 of Cr.P.C



wherein the complainant due to fear gave statement in favour of accused persons. The complainant was beaten and given electric shock due to which she fell sick due to mental and physical torture. The accused persons made plot against the complainant and sent her to Ranchi to live with petitioner no. 1. The complainant is in fear and in conspiracy the accused persons have got papers to prove that she is mad and in collusion with doctors has got prepared certificate for obtaining divorce.

It has been submitted by learned counsel for the petitioners that an F.I.R vide Akbarpur P.S. Case No. 110 of 2005 was registered for the offences under Section 498A in which the final form exonerating the petitioners submitted by the police in the court below and the same was accepted by the Chief Judicial Magistrate, Nawada, thereafter, the present complaint was filed against the petitioners in which charges have been directed to be framed.

It has been further submitted by learned counsel for the petitioners that in the statement recorded under Section 164 of the Cr.P.C, the victim girl Punam Devi was suffering from mental illness since 1996. The husband (Ajay Kumar) of the Victim Punam Devi was filed a matrimonial divorce case bearing Matrimonial Title Suit No. 66 of 2006 before the



learned Principal Judge, Family Court, Ranchi for declaring the marriage as nullity on the ground that his wife was of un-sound mind and was mentally disturbed. The victim girl Punam Devi was also examined medically and it was found that she was suffering from Schizophrenia.

The Complainant also filed an application and raised objection regarding the jurisdiction of Principal Judge, Family Court, Ranchi and the same was accepted raised for the territorial jurisdiction and permitted to give liberty to the petitioner no. 1 to file a petition before appropriate Court, thereafter, this matrimonial divorce case bearing Matrimonial Divorce Case No. 16 of 2010 was filed before Principal Judge, Family Court, Nawada for declaring that victim girl Punam Devi was of un-sound mind and mentally disturbed and the same fact was suppressed by her and the marriage could not be consummated between them because of the aforesaid reasons.

On 17.05.2011 divorce was granted by the court below to the petitioner no. 1 on the ground that Punam Devi was suffering from Schizophrenia and the petitioner no. 1 could not reasonably reaccept to live with the victim girl Punam Devi.

Learned counsel for the opposite party no. 2 has not disputed any of the facts which have been discussed above.



Moreover, he has also informed to this Court that the victim girl Punam Devi has passed away.

Once the petitioner no. 1 was granted divorce on the ground of unsound mind and mental disturbed of late Punam Devi, the petitioner no. 1 and his family members cannot be prosecuted on the basis of allegations of torture levelled against them. It is an admitted position that late Punam Devi was suffering from Schizophrenia before her marriage and she was being treated for her ailment. When the petitioner no.1 and his family members came to know about their ailment, this false and frivolous case was filed against them.

Considering the aforesaid facts and mental illness of the late Punam Devi, this application is allowed and therefore, the order dated 20.05.2014 passed by learned Judicial Magistrate-1st Class, Gaya in Complaint Case No. 1517 of 2009 and all consequential proceedings arising out of the aforesaid F.I.R. are hereby quashed.

(Sandeep Kumar, J)

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