

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.19771 of 2017

Arising Out of PS. Case No.-167 Year-2007 Thana- MADHAURAH District- Saran

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1. Rinku Kumari, D/o Ram Badan Singh
 2. Chinta Devi, W/o Ram Badan Singh
 3. Ram Badan Singh, S/o Late Radha Singh
 4. Arun Singh S/o Ram Badan Singh.

All residents of village - Daudpur, P.S.-Daudpur, District -
Saran at Chapra.

... .. Petitioners

Versus

1. The State Of Bihar
2. Baby Singh, D/o Kalicharan Singh, Resident of Village - Mubarakpur, P.S. -
Marhauraha, District - Saran at Chapra.
3. Mithlesh Singh, S/o Late Ram Niwas Singh Resident of Village -
Sarnathchak Baraka, P.S. - Baniapur, District - Saran at Chapra.

... .. Opposite Parties

Appearance :

For the Petitioners	:	Mr. Neeraj Kumar, Advocate
For the State	:	Mr. Sri Rajendra Prasad Nat, APP

CORAM: HONOURABLE MR. JUSTICE SANDEEP KUMAR
ORAL JUDGMENT
Date : 27-03-2023

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

Despite service of notice, no one appears on behalf
of opposite party nos. 2 and 3.

This application has been filed for quashing of
order dated 09.03.2016 passed by learned Additional Sessions
Judge, VI, Saran at Chapra, in Criminal Revision No.33 of 2013



by which the learned Court below has dismissed the said Revision Application and affirmed the order dated 17.11.2012 passed by learned Sub Divisional Judicial Magistrate, Saran at Chapra in Trial No. 1461 of 2012 whereby and whereunder the learned Magistrate has dismissed the discharge application filed by the petitioners.

The prosecution case is that the opposite party no.2 was married to co-accused Ajay Singh (son of petitioner nos.2 and 3) according to Hindu rites and customs. It is alleged that after some time, the accused persons demanded motorcycle and colour T.V. from the opposite party no.2 and the opposite party no.2 has informed this fact to her parents. After knowing this fact, when the brother of the opposite party no.2 came to her matrimonial home, all the accused persons abused him and ousted from the house. It is also alleged that earlier the accused persons tried to set her ablaze but he managed to save herself and fled away from her matrimonial home.

From the order dated 11.02.2016 passed by learned Principal Judge, Family Court, Saran at Chapra, in Divorce Case No. 226 of 2008, it appears that divorce has been granted to the son of the petitioner nos. 2 and 3 on the ground that opposite party no.2 is leading adulterous life with opposite party no.3.



Relevant portion of the finding recorded by the Court below in the judgment reads as under:-

“...Thus, on the basis of aforesaid evidence and Ext.1, I am of the view that the O.P. No.1 is leading adulterous life with the O.P. No.3 and since the O.P. No.1 is leading adulterous life, hence the petitioner is entitled for decree of divorce. Therefore, on the basis of aforesaid facts the issue No. II is answered in affirmative and it is held that the allegation of adultery levelled by the petitioner against the O.P. No.1 is correct and genuine.”

In view of the aforesaid finding that the opposite party no.2 is leading adulterous life with opposite party no.3, the petitioners cannot be prosecuted under Sections 498-A, 504, 506 and 323 of the Indian Penal Code and under Section 3/4 of the Dowry Prohibition Act.

In view of the above, this quashing application is allowed.

Accordingly, the F.I.R. vide Madhaurah P.S. Case No. 167 of 2017 registered for the offences under Sections 498-A, 504, 506 and 323 of the Indian Penal Code and under Section 3/4 of the Dowry Prohibition Act and all consequential proceedings arising out of the said FIR including the order dated 09.03.2016 passed by learned Additional Sessions Judge, VI,



Saran at Chapra in Criminal Revision No.33 of 2013 and the order dated 17.11.2012 passed by learned Sub Divisional Judicial Magistrate, Saran at Chapra in Trial No. 1461 of 2012 are quashed and set aside.

(Sandeep Kumar, J)

pawan/-

AFR/NAFR	N.A.F.R.
CAV DATE	N/A.
Uploading Date	05.04.2023
Transmission Date	

