

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.32595 of 2016

Arising Out of PS. Case No.-39 Year-2008 Thana- HATHAURI District- Samastipur

1. Suman Devi, W/o- Vinod Kumar Jha, R/o Village- Boraz, P.S- Hathauri, District- Samastipur.
2. Ram Naresh Choudhary, @ Udit Narayan Choudhary, S/o- Late Lal Babu Choudhary.
3. Rajeev Kumar Choudhary @ Rajiv Choudhary, S/o- Ram Naresh Choudhary @ Udit Narayan Choudhary Both petitioner NO. 2 and 3 are R/O Village- Ballipur, P.S - Hathauri, District- Samastipur.

... .. Petitioner/s

Versus

1. The State Of Bihar Through The Chief Secretary, Govt. Of Bihar At Patna
2. The District Magistrate, Samastipur at Samastipur.
3. The Superintendent of Police Samastipur at Samastipur.
4. Sanju Devi, W/o- Vinod Kumar Jha, R/o Village- Boraz, P.S Hathauri, District- Samastipur.

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Krishna Prasad Singh, Advocate
For the Opposite Party/s : Mr.Binod Kumar 3, APP

CORAM: HONOURABLE MR. JUSTICE BIBEK CHAUDHURI
ORAL ORDER

13 19-07-2024 Petitioner No. 1 is the legally married wife of one Vinod Kumar Jha, Petitioner No. 2 is the father of Petitioner No. 1 and Petitioner No. 3 is the brother-in-law of Petitioner No. 1.

2. The informant, Opposite Party No. 4 herein claiming to be the second wife of the said Vinod Kumar Jha filed a complaint under Section 498A of the IPC. The police submitted charge-sheet against Vinod Kumar Jha and final report against the present petitioners.



3. The learned Magistrate while taking cognizance of office on the basis of the charge-sheet and other materials on record, took cognizance of offence against the said Vinod Kumar Jha and the present petitioners also.

4. The petitioners challenged the said order in revision before the learned Sessions Judge by filing a revisional application, which was registered as Cr. Rev. No. 70 of 2015. The revisional application was dismissed by the learned Sessions Judge.

5. The petitioners have challenged the said order and prayed for quashing of the criminal proceeding against the present petitioners by filing an application under Section 482 of the Cr.P.C.

6. It is not in dispute that Opposite Party No. 4 is the second wife of Vinod Kumar Jha. During the subsistence of the first marriage, solemnization of the second marriage under the Hindu Marriage Act, 1955, is a nullity. Therefore, no complaint under Section 498A of the IPC is maintainable against the petitioners at the instance of Opposite Party No. 4, allegedly the second wife of the said Vinod Kumar Jha.

7. Learned Advocate on behalf of the Opposite Party No. 4 submits that the marriage of Opposite Party No. 4 was



solemnized with the said Vinod Kumar Jha with the consent of all his family members because his first wife would not bear any children for the family. However, second marriage, even with the consent of the family members of the husband, does not validate the marriage under the Hindu Marriage Act, 1955.

8. For the reasons stated above, criminal proceeding being Hathauri P.S Case No. 39 of 2008, TR No. 533 of 2014 be quashed against the present petitioners.

(Bibek Chaudhuri, J)

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