

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.17513 of 2015

Arising Out of PS.Case No. -2029 Year- 2013 Thana -PATNA COMPLAINT CASE District-
PATNA

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1. Major Kunaal Malhotra Son of Sri Deepak Malhotra
 2. Deepak Malhotra Son of Late Diwan Chand Malhotra
 3. Sudarshan Malhotra wife of Deepak Malhotra All residents of Flat No. CD-2, Third Floor, Farm View Apartment, Satbari Chattarpur, P.S. Satbari, Dist. New Delhi-110071.
 4. Ankita Verma wife of Sandeep Verma
 5. Sandeep Verma Son of ishwar Verma Both resident of B-3, Bougain Villa Apartment, Basant Kunj, P.S.- Basant Kunj, Dist- New Delhi

.... Petitioner/s

Versus

1. The State of Bihar.
2. Mrs. Tanu Malhotra W/O Major Kunaal Malhotra & D/O sh. Gurmit Singh, R/O House No. 939, Behind Hotel Vikram, Exhibition Road, P.S.- gandhi Maidan, Distt- Patna, Bihar.

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Prabhat Ranjan, Advocate
For the opposite party No. 1 : Mr. Surendra Prasad Singh (APP)
For the Opposite Party No. 2 : Mr. Naresh Kr. Malhotra, Sr. Advocate
Mr. Binod Kumar Sinha, Advocate

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CORAM: HONOURABLE MR. JUSTICE ASHWANI KUMAR SINGH

ORAL ORDER

3 28-04-2015 This application under Section 482 of the Code of Criminal Procedure has been filed for the quashing of the order dated 28.01.2014 passed by learned Judicial Magistrate, 1st Class, Patna in Complaint Case No. 2029(C) of 2013 corresponding to Trial No. 2587 of 2013 whereby and whereunder finding a prima facie case to be made out against the petitioner for the offence punishable under Section 498-A read with 34 of the Indian Penal Code, the petitioners have been summoned to face trial.



2. The complainant opposite party No. 2 was married to petitioner No. 1 on 09.02.2010 at Delhi. On 13th June, 2013, the complainant filed Complaint Case No. 2029 of 2013 in the Court of Chief Judicial Magistrate, Patna alleging therein that after the solemnization of marriage, the accused persons subjected her to cruelty for non-fulfillment of demand of demand of Rs. 50 lakhs for the purpose of treatment of physical ailment in left knee of the petitioner no. 1, Major Kunaal Malhotra (husband of the complainant). The complainant was examined on oath and on her behalf three witnesses were examined in course of enquiry namely, E.W. 1 Gurmit Singh, E.W.2 Kuldip Singh and E.W. 3 Uma Singh.

3. After holding enquiry under Section 202 of the Code of Criminal Procedure, the learned Judicial Magistrate, 1st Class, Patna summoned the petitioners vide order dated 28.01.2014 to face trial for the offence punishable under Section 498-A read with 34 of the Indian Penal Code.

4. The aforementioned order dated 28.01.2014 is under challenge before this Court. Heard Mr. Prabhat Ranjan, learned counsel for the petitioners, Mr. Surendra Prasad Singh, learned Additional Public Prosecutor and Mr. N.K. Malhotra, learned Senior Counsel for the opposite party No. 2.

5. It would be relevant to mention here that petitioners Deepak Malhotra, Sudarshan Malhotra, Ankita Verma, and Sandeep Malhotra are father-in-law, mother-in-law, sister-in-law and brother-in-law of the complainant-opposite party No. 2.

6. Learned counsel for the petitioners has submitted that the dispute between the petitioner No. 1 and respondent No. 2 was referred for mediation before Shri Jitendra Kumar, learned Mediator, after which the mediation process between the parties started. Thereafter, with the able assistance and in consultation with the aforesaid Mediator, the petitioner No. 1 and respondent No. 2 decided to get the marriage annulled through decree of divorce by mutual consent and arrived at an amicable settlement and have also agreed to execute a settlement agreement. As per settlement agreement, the petitioner No. 1 and respondent No. 2 mutually agreed to the statement in agreement in principle, as full and final settlement once and for all with regard to all their differences.

7. In view of the terms of settlement agreement and due to the irreconcilable break down of the marriage, the parties mutually agreed to file a petition for dissolution of marriage with mutual consent. In terms of the settlement agreement, they also agreed to withdraw all the court cases and complaints filed against each

other and against the family member of each other. They also agreed not to initiate any criminal case, Police complaint, court case against each other in view of the mutual compromise arrived at between the petitioner No. 1 and respondent No. 2.

8. It has further been contended that in view of the mutual agreement arrived at between the parties, an application under Section 13-B(1) of the Hindu Marriage Act 1955 (hereinafter referred to as 'the act') vide Matrimonial Case No. 406 of 2015 was filed by the petitioner in the Court of the Principal Judge, Family Court at Patna for dissolution of marriage by decree of divorce with mutual consent. The complainant also consented for the decree and, accordingly, vide judgment dated 15th April, 2015, the case was decreed in terms of Section 13-B(1) of the Act and the marriage between the petitioner no. 1 Major Kunaal Malhotra and the complainant Mrs. Tannu Malhtora solemnized on 9th June, 2010 was dissolved by decree of divorce on their mutual consent by learned Principal Judge at Patna.

9. Learned counsel for the opposite party No. 2 has not disputed the aforesaid contention of learned counsel for the petitioner. As a matter of fact, he has filed an affidavit duly sworn by the father of the complainant admitting the settlement agreement and decree of divorce with mutual consent of the

parties. He contends that as the parties have resolved their dispute out side the Court, no useful purpose would be served by keeping the matter pending before this Court.

10. It is true that Section 498-A of the Indian Penal Code is not compoundable under Section 320 of the Indian Penal Code. However, the Hon'ble Supreme Court has considered this aspect in several cases and it has held that in cases falling under Section 498-A of the Indian Penal Code if the parties have arrived at to an amicable settlement, no useful purpose would be served by putting the accused persons on trial.

11. In B.S. Johsi and Ors. Vs. State of Haryana and Ors. reported in 2003(4) SCC 675 the Hon'ble Supreme Court observed that for securing the ends of justice, if quashing of First Information Report becomes necessary, Section 320 would not be a bar to the exercise of power of quashing. It further held that the High Court in exercise of its inherent powers can quash criminal proceedings or First Information Report or complaint and Section 320 of the Code does not limit or affect the powers under Section 482 of the Code.

12. Under the facts and circumstances of the present case, I am of the opinion that allowing the prosecution to continue any more would be an abuse of the process of Court.

13. In that view of the matter, the impugned order dated 28.01.2014 passed by the learned Judicial Magistrate, 1st Class, Patna and the Complaint Case No. 2029(C)/2013 and the entire criminal prosecution arising out of Complaint Case No. 2029(c)/2013 pending the Court of Judicial Magistrate, 1st Class, Patna are hereby quashed.

14. The application stands allowed accordingly.

(Ashwani Kumar Singh, J)

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