

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Writ Jurisdiction Case No. 912 of 2014

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1. Gopesh Kumar @ Kumar Gopesh, S/o Shiv Bhagwan Gupta
2. Shiv Bhagwan Gupta, son of Late Badri Narain
3. Pramila Devi @ Parmila Gupta, wife of Shiv Bhagwan Gupta
4. Kumar Prabhat Chandra, son of Shiv Bhagwan Gupta
5. Shila Devi, D/o Shiv Bhagwan Gupta
6. Priyanka Kumari, D/o Vishwanath Sao
All resident of village – Barbiga, Golapar, P.S. – Barbiga, Dist. -
Sheikhpura

.... Petitioners

Versus

1. The State of Bihar through District Magistrate, Nalanda
2. Kanchan Kumari, D/o Brahamdeo Prasad
3. Brahamdeo Prasad, son of Late Shyam Sah
Both resident of Kaggi Muhalla, P.S. – Biharsharif, Dist. - Nalanda

.... Respondents

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Appearance :

For the Petitioners : Mr. Gauri Shankar Prasad, Advocate
For the Respondents : Mr. Ajeet Kumar, S.C. XXVIII

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CORAM: HONOURABLE MR. JUSTICE GOPAL PRASAD
ORAL ORDER

4 01-07-2015

Heard.

This is a petition for quashing the First Information Report of Bihar P.S. Case No. 265 of 2014, dated 04.07.2014 under Sections 323, 406, 498 and 494/34 of the Indian Penal Code arising out of the complaint filed by the opposite party no. 2 Kanchan Kumari bearing Complaint Case No. 638(C) of 2014 dated 02.06.2014 as a counter blast to the Matrimonial Case No. 42 of 2008 filed by the petitioner no. 1 Kumar Gopesh @ Gopesh Kumar under Section 12 read with Section 13 of the Hindu Marriage Act 1053 before the District and Sessions Judge, Munger on 24.11.2008 against the opposite party no. 2 on the ground of

madness and mental disease.

Learned counsel for the respondent no. 2-the wife of the petitioner no. 1 appeared and submitted that matrimonial case has been disposed of in view of the compromise between the parties accepting the divorce and respondent no. 2 has received maintenance amount as one time settlement and thereafter respondent no. 2 has filed a compromise petition that Bihar P.S. Case No. 265 of 2014 be disposed of in terms of compromise by the Chief Judicial Magistrate, Nalanda at Bihar Sharif. It has been submitted that since the parties have settled the dispute and divorce has been entered into between the parties and even the amount for settlement of dispute has been received by draft, no useful purpose is being served by keeping the case pending. It is submitted that Section 323 of the Indian Penal Code is compoundable at the instance of the person to whom the hurt is caused and Sections 406 and 494 are compoundable by the person who is the owner of the property with the permission of the Court. However, Section 498A of the Indian Penal Code is not compoundable in view of the several decisions of the Supreme Court to bring harmony particularly in case of Section 498A of the Indian Penal Code.

Hence, having regard to the fact that since a divorce

entered into between the parties in terms of the compromise, the offences are compoundable, except Section 498A of the Indian Penal Code, no useful purpose is going to be served by allowing the prosecution to continue and hence, Bihar P.S. Case No. 265 of 2014, is hereby quashed in the interest of justice and the petition is allowed.

(Gopal Prasad, J.)

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