

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.608 of 2015

Arising Out of PS.Case No. -178 Year- 2013 Thana -KATIHAR COMPLAINT CASE District- KATIHAR

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1. Ghanshyam Bhagat son of Janardan Prasad Bhagat, resident of 4-A Bansdroni Park, Near Shivdham More, P.S.- Bansdroni, Kolkata
 2. Janardan Prasad Bhagat son of Late Maheshwari Prasad Bhagat
 3. Hemlata Jaiswal wife of Janardan Prasad Bhagat Petitioner no. 2 and 3 are resident of village- Kander, P.O. Umedanda, P.S. Burmu, District- Ranchi (Jharkhand)

.... Petitioner/s

Versus

1. The State of Bihar
2. Pushpa Bhagat D/o Jyotish Chandra Chaudhary wife of Ghanshyam Bhagat resident of village, P.O. P.S. Jalalgarh District Purnea, Presently residing at Shiv Mandir Chowk, Katihar, P.S. AND District- Katihar

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Bhola Prasad & Mr. Mukesh Kumar (Adv.)
For the Opposite Party/s : Mr. Churendra Kumar, (Adv.)
For the State : Mr. Akshay Lal Pandit., (Adv.)

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CORAM: HONOURABLE MR. JUSTICE ASHWANI KUMAR SINGH
ORAL JUDGMENT

Date: 07-09-2015

Heard Mr. Bhola Prasad, learned counsel appearing for the petitioner, Mr. Akshay Lal Pandit, learned counsel appearing for the State and Mr. Dhurendra Kumar, learned counsel appearing on behalf of Opposite Party No. 2.

2. The present application under Section 482 of the Code of Criminal Procedure (for short ‘Cr.P.C.’) has been filed for quashing the entire criminal proceeding of Complaint Case No. 178 of 2013 including the order dated 17.04.2013 passed by the learned Sub-Divisional Judicial Magistrate, Katihar whereby after taking cognizance of the offence under Section 498(A)/34 of the

Indian Penal Code and Section 4 of the Dowry Prohibition Act, summons have been issued against the petitioners.

3. According to complainant (Opposite Party No. 2), she was married to petitioner no. 1 on 18.11.2006 at Katihar. After marriage, stayed at her matrimonial home at village Kander, P.S. Burmu, District- Jharkhand for few days and thereafter she went together with husband to Kolkata where he runs his own business. She was kept well for about six months but thereafter the behavior of her husband and in-laws suddenly changed and they started demanding Rs. 5 Lac for investment in their business and for non-fulfillment of the same, she was being subjected to cruelty. When the facts came to the knowledge of her brother-in-law, he informed the matter to her father, who in order to satisfy the petitioners paid Rs. 2,50,000/- in two installments but even then the petitioners did not stop ill treatment and lastly she was ousted from her matrimonial home at Kolkata on 08.10.2012. Thereafter, she informed the matter to her father who came and tried to pacify the matter through negotiation. However, his efforts went in vain. Her father took her back to her parental home (Naihar). Finding no way out, the complainant filed the instant complaint on 28.01.2013.

4. The complainant was examined on solemn affirmation under Section 200 of the Cr.P.C. and in course of the inquiry,

conducted under Section 202 Cr.P.C., two witnesses were examined on her behalf. After holding enquiry, the learned Sub-Divisional Judicial Magistrate, Katihar, by impugned order dated 17.04.2013, summoned the petitioners to face trial.

5. Learned counsel for the petitioner has contended that petitioner no. 1 is the husband and petitioner nos. 2 and 3 are parents-in-law of the Opposite Party No. 2. The Opposite Party No. 2 had also filed a matrimonial suit seeking a decree of divorce under Section 13-B of the Hindu Marriage Act, vide Matrimonial Case No. 571 of 2013 and on the basis of mutual consent, the marriage between the petitioner no. 1 and Opposite Party No. 2 was dissolved by passing a decree of divorce on 22.09.2014. In the said case, Opposite Party No. 2 had received an amount of Rs. 15 Lac as permanent alimony and all future maintenance in lieu of divorce from petitioner no. 1 and the parties had agreed that they will set at rest all the litigations pending between them. In terms of the compromise arrived at between the parties a joint compromise petition was filed in the present case in the court of Sub-Divisional Judicial Magistrate, Katihar on 27.11.2013. However, no order has been passed by learned Sub-Divisional Judicial Magistrate, Katihar on the said petition till date.

6. It has been further submitted that in view of the bonafide settlement arrived at between the parties, neither the

complainant (Opposite Party No. 2) nor the accused persons have any inclination to fight the dispute.

7. Mr. Dhurendra Kumar, learned counsel for the Opposite Party No. 2 has supported the contentions advanced by the learned counsel for the petitioners. He has submitted that since there is a bonafide and genuine settlement of matrimonial dispute that the ends of justice require that the impugned complaint be quashed.

8. Mr. Akshay Lal Pandit, learned counsel for the State submits that in this case since the parties have settled their matrimonial dispute outside the court, the State would have no objection to the quashing of the complaint in view of law laid down by the Supreme Court in **Gian Singh Vs. State of Punjab and Another [(2012)10 SCC 303]**.

9. I have heard the respective counsel for the parties and perused the record. In my view, on the facts and in the circumstances of the case, it would not be in the interest of justice to continue the proceeding. After considering the nature of offence and the fact that both the parties have amicably settled their matrimonial dispute, continuation of criminal proceedings will be an exercise in futility.

10. The Supreme Court in Gian Singh (Supra) has held that inherent jurisdiction of this Court under Section 482 Cr.P.C.

can be exercised to quash the proceedings in respect of criminal cases arising from commercial, financial, mercantile, civil partnership or such like transactions or the offences arising out of matrimony relating to dowry or the family disputes where the wrong is basically private or personal in nature and the parties have resolved their entire dispute even though they are not compoundable.

11. Keeping in view the fact that the parties have entered into a compromise and the complainant (Opposite Party No. 2) has received permanent alimony as per compromise and that the compromise has been made without any pressure, coercion, threat or inducement, the entire criminal proceeding including the order dated 17.04.2013 passed by the learned Sub-Divisional Judicial Magistrate, Katihar in Complaint Case No. 178 of 2013 is, hereby, quashed.

12. The application is accordingly allowed.

(Ashwani Kumar Singh, J)

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