

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.27266 of 2012

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1. Sumit Kumar Tiwary @ Banti @ Sunit Kumar Tiwary @ Sunil Kumar Tiwary S/O Rameshwar Tiwary R/O Vill-Ramgarh, P.S.-Siswan(Chainpur), Distt-Siwan
 2. Rameshwar Tiwary S/O Late Ravinandan Tiwary R/O Vill-Ramgarh, P.S.-Siswan(Chainpur), Distt-Siwan
 3. Kamal Devi W/O Rameshwar Tiwary R/O Vill-Ramgarh, P.S.-Siswan(Chainpur), Distt-Siwan Petitioners
- Versus

1. The State Of Bihar
 2. Kamleshwar Pandey @ Sunil Pandey S/O Late Vishwanath Pandey R/O Vill-Lauarampur, P.S.-Bhagwanpur, Distt-Siwan .. Opposite Parties
- =====

Appearance :

For the Petitioners : Mr. Krishna Pd.Singh, Senior Advocate
Mr. Saket Kumar Singh, Advocate

For the Opposite Parties : Mrs. Meena Singh, Advocate &
Mr. Jharkhandi Upadhyay, APP

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CORAM: HONOURABLE MR. JUSTICE SAMARENDRA PRATAP SINGH
ORAL ORDER

11 06-01-2015 Heard learned counsel for the parties. Smt. Suman @ Suman Pandey, former wife of petitioner no.1, Sumit Kumar Tiwary @ Banti @ Sunit Kumar Tiwary @ Sunil Kumar Tiwary is also present in person accompanied with her mother.

The petitioners pray for quashing order dated 24.3.2012, passed by the Chief Judicial Magistrate, Siwan in Siswan Police Station Case No. 73 of 2010, by which he has taken cognizance of offence under Sections 498A and 323 of the IPC and sections 3 of the Dowry Prohibition Act.

The petitioners state that petitioner no.1, Sunit Kumar Tiwary and Suman Pandey (daughter of opposite party no.2) were married to each other as per Hindu Marriage Act on 7.2.2006 and got a female offspring, namely, Khushi in 2007

out of the wedlock. However, due to matrimonial differences Suman @ Suman Pandey filed a petition, namely, HMA Petition No.822 of 2013 (Annexure 4 to the suppl. affidavit) before the court of Principal Judge, Family Courts, Dwarka, New Delhi under section 13(B)(1) of the Hindu Marriage Act for dissolution of marriage by mutual consent. In terms of Settlement deed/MOU dated 10.11.2013 (Ex.C-1), between the parties, the learned Principal judge, Family court passed decree of divorce. A copy of the memorandum of settlement is contained in Annexure 3, whereas order passed in Petition No. 822 of 2013 is contained in Annexure 4 to the suppl. affidavit. Paragraph 3 of the settlement deed(Annexure 3) reads as follows:-

Both the parties have settled all their disputes and differences and agreed to proceed for mutual divorce and the first party has agreed to settle/resolve the matter for a total consideration amount of Rs.2,40,000/- and the second party has agreed to pay a sum of Rs.2,40,000/- towards full and final settlement. Out of a total sum of Rs.80,000/- shall be paid at the time of the recording of the statement of first motion of mutual divorce and Rs.80,000/- shall be paid at the time of recording of statement of second motion and full and final amount of Rs.80,000/- shall be paid at the time of recording of statement

of quashing the FIR before the Hon'ble High court, which is including Stridhan, permanent alimony, and maintenance (past, present and future), etc. towards the first party.”

Mr. Krishna Prasad Singh, learned Senior Advocate, appearing for the petitioners submits that a sum of Rs.1,60,000/- has already been paid to Mrs. Suman Pandey, whereas a cheque of Rs.80,000/- has been handed over to her today in the court itself. Mr. Singh further assures the Court that a sum of Rs.10,000/- would be paid immediately to Mrs. Suman Pandey towards traveling and other expenses.

Mrs. Suman Pandey, who is present in the court, in person accompanied with her mother and learned counsel, does not controvert the aforesaid submission of the petitioners.

In the facts and circumstances of the case, this Court finds that no useful purpose would be served to continue the proceeding before the court below. In the result, the petition is allowed and the impugned order taking cognizance of offences under sections 498A and 323 of the IPC and sections 3 of the Dowry Prohibition Act against the petitioners, is set aside.

Shashi.

(Samarendra Pratap Singh, J)

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