

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.18461 of 2014

Arising Out of PS.Case No. -3333 Year- 2010 Thana -PATNA COMPLAINT CASE District-
PATNA

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Amit Gupta, Son of Late Anil Kumar Gupta, Resident of 1C- 15, Wellington Estate
D.L.F., Phase 5, P.S- Gurgaon, District- Gurgaon (Haryana)

.... Petitioner.

Versus

1. The State of Bihar.
2. Richa Narayan, Daughter of Dr. Captain Ishwari Narayan, C/o Babita Kishori,
K.S.F., A/2-4, Madhuban Aawas Board, Malahi Pakri, P.S- Patrakar Nagar,
District- Patna.

.... Opposite Parties.

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Appearance :

For the Petitioners : M/s. Chittaranjan Sinha, Senior Advocate and
Amish Kumar, Advocate.
For the State : Mr. Jharkhandi Upadhyay, A.P.P.
For the Opposite Party No.2 : Mr. Rajesh Shukla, Advocate.

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CORAM: HONOURABLE MR. JUSTICE RAJENDRA KUMAR MISHRA
ORAL JUDGMENT

Date: 28-11-2016

Heard learned counsel for the petitioner, learned A.P.P. for the
State and the learned counsel for the opposite party no.2.

2. This application, under Section 482 of the Code of Criminal
Procedure, has been filed on behalf of the petitioner for quashing the order
dated 05.04.2011 passed in Complaint Case No.3333(C) of 2010 by the
court of Smt. Rumpa Kumari, Judicial Magistrate, First Class, Patna
(Sadar), summoning the petitioner under Section 204 of the Code of
Criminal Procedure, on enquiry, finding prima facie case under Sections
498(A), 323 and 506 of the Indian Penal Code against him.

3. Learned counsel for the petitioner and opposite party no.2



submits that on the request of the petitioner and the opposite party no.2, the matter was referred to the Patna High Court Mediation & Conciliation Centre on 16.10.2014, where the parties finally agreed for one time full and final settlement of dispute with condition that the First Party shall pay to the Second Party a sum of RS.18,00,000/- (Rs. Eighteen Lacs) by way of Bank Drafts in installments as described hereunder:

Amount	Stage
Rs.6 lacs	At the time of entering into the present agreement (30 th May, 2015).
Rs.3 lacs	At the time of filing of Petition for divorce by mutual consent before the Competent Court.
Rs.3 lacs	At the time of Granting of First Motion under the Hindu Marriage Act by the Competent Family Court.
Rs.3 lacs	At the time of quashing of the Instant criminal case by this Hon'ble High Court and simultaneous withdrawal of any other case or litigation filed by the Second party against the First Party anywhere in the Country, including any claim for maintenance/Petition under the Domestic Violence Act/All other ancillary proceeding.
Rs.3 lacs	At the time of granting of Second Motion under the Hindu Marriage Act (A Decree of Divorce).

2. The initial payment of RS.9,00,000/- (Nine Lacs) was made on the date of settlement of dispute on 30.04.2015 through two Demand Drafts, one of Rs.3,00,000/- issued by Yes Bank, Faridabad, Haryana Bank, bearing DD No.246524 dated 28.04.2015 and other Demand Draft bearing DD No.246525 of Rs.6,00,000/- dated 28.04.2015 in favour of opposite



party no.2.

3. It was agreed between the Parties, that the Parties shall file Petition for divorce on mutual consent under sections 13B of Hindu Marriage Act to obtain the divorce as soon as practically possible before court of appropriate jurisdiction.

4. Learned counsel for the petitioner and the opposite party no.2 jointly made submission that according to the settlement between the parties, Rs.18,00,000/- is to be paid by the petitioner to the opposite party no.2, out of which Rs.12,00,000/- has already been paid to the opposite party no.2 by the petitioner and Rs.3,00,000/- is to be paid by the petitioner to the opposite party no.2 at the time of hearing of this application and Rs.3,00,000/- is to be paid to the opposite party no.2 by the petitioner at the time allowing Divorce Petition jointly filed by the parties. The Demand Draft of Rs.3,00,000/- in the name of the opposite party no.2 is handed over to the learned counsel for the opposite party no.2 today and the rest Rs.3,00,000/- would be paid by the petitioner to the opposite party no.2 at the time of disposal of Divorce Petition filed by the parties.

Further submission is that that while the offence under Section 498-A of the Indian Penal Code is not compoundable under Section 320 of the Code of Criminal Procedure but in view of the decision of the Hon'ble Apex Court in a case of **B.S. Joshi and Others Versus State of Haryana and Another {(2003)4 Supreme Court Cases 675}**, for the ends of justice and to lead peaceful life by the parties, the High Court can quash the criminal proceeding in matrimonial matter. Further submission is that the



petitioner undertakes to pay Rs.3,00,000/- to the opposite party no.2 at the time of disposal of Divorce Petition filed by the parties and both the parties want to quash the impugned order.

5. In the case of **B.S. Joshi** (supra), the Hon'ble Apex Court in paragraphs-14 & 15 held as under:

“14. There is no doubt that the object of introducing Chapter XX-A containing Section 498-A in the Indian Penal Code was to prevent torture to a woman by her husband or by relatives of her husband. Section 498-A was added with a view to punishing a husband and his relatives who harass or torture the wife to coerce her or her relatives to satisfy unlawful demands of dowry. The hypertechnical view would be counterproductive and would act against interests of women and against the object for which this provision was added. There is every likelihood that non-exercise of inherent power to quash the proceedings to meet the ends of justice would prevent women from settling earlier. That is not the object of Chapter XX-A of the Indian Penal Code.

15. In view of the above discussion, we hold that the High Court in exercise of its inherent powers can quash criminal proceedings or FIR or complaint and Section 320 of the Code does not limit or affect the powers under Section 482 of the Code.”

6. In view of the settlement of matrimonial dispute between the petitioner and the opposite party no.2 before the Patna High Court Mediation & Conciliation Centre, the impugned order dated 05.04.2011 passed in Complaint Case No.3333(C) of 2010 by the court of Smt. Rumpa



Kumari, Judicial Magistrate, First Class, Patna (Sadar), summoning the accused-petitioner for the offence under Sections 498(A), 323 and 506 of the Indian Penal Code is hereby quashed and this application is, accordingly, allowed. The petitioner and the opposite party no.2 are directed to get the divorce case filed by them disposed of in terms of compromise.

(Rajendra Kumar Mishra, J)

P.S./-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	16.12.2016
Transmission Date	16.12.2016

