

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.36081 of 2015

Arising Out of PS.Case No. -2008 Year- 2010 Thana -PATNA COMPLAINT CASE District-
PATNA

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Deepak Kumar Gupta @ Dipak Kumar Gupta @ Deepak Kumar, S/o Sri Badrinath
Gupta, at present resident of Labu Niwas, Flat No. 201 Near O Guwahati restaurant,
Ganesh Guri, P.S.- Dispur, P.O.- Dispur, Guwahati

.... Petitioner

Versus

1. The State of Bihar.
2. Prity Gupta @ Prity Raj, W/o Deepak Kumar Gupta at present resident of Labu
Niwas, Flat No. 201 Near O Guwahati restaurant, Ganesh Guri, P.S.- Dispur,
P.O.- Dispur, Guwahati

.... Opposite Parties

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Appearance:

For the Petitioner/s : Mr. Ravi Bhusan, Advocate.

For the Opposite Party/s : Mr. Ranjan Kumar Sinha, Advocate.

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CORAM: HONOURABLE MR. JUSTICE ASHWANI KUMAR SINGH

ORAL JUDGMENT

Date: 14-03-2016

By way of the present application preferred under
Section 482 of the Code of Criminal Procedure, the petitioner seeks
quashing of the order dated 24.01.2011 passed by learned Judicial
Magistrate-1st Class, Patna in Complaint Case No. 2008(c) of 2010
whereby and whereunder finding a *prima facie* case to be made out
against the petitioner for the offences punishable under sections 420,

406 and 120B of the Indian Penal Code, the petitioner has been summoned to face the trial.

2. Heard Mr. Ravi Bhushan, learned counsel for the petitioner and Mr. Ranjan Kumar Sinha, learned counsel for the complainant-opposite party no.2.

3. Mr. Ravi Bhushan, learned counsel for the petitioner has submitted that the complainant-opposite party no. 2 is the wife of the petitioner. In view of matrimonial discord and incompatibility, the complainant had initially filed a complaint case bearing No. 3253 (c) of 2009 against the petitioner and his relatives in which cognizance was taken under section 498A of the Indian Penal Code. Subsequently, she filed the present complaint in 2010 alleging therein that by using her ATM card, the petitioner had illegally withdrawn Rs. 49,539/- from her account.

4. Mr. Ravi Bhushan has further submitted that due to intervention of common relatives and well-wishers, the parties amicably settled their dispute outside the court and a joint compromise petition was filed in connection with Complaint Case No. 3253(c) of 2009 before the Magistrate concerned. Thereafter, an application under section 482 of the Code of Criminal Procedure was filed by the petitioner before this Court for quashing the summoning order. After hearing both the parties, this Court vide order dated



17.04.2015 passed in Criminal Miscellaneous No. 29904 of 2012, quashed the aforesaid order summoning the petitioner to face trial. He has further submitted that the petitioner and the complainant have resolved all their differences and are leading their conjugal life happily. It has been contended that the complainant is no more interested in prosecuting the petitioner in the present case under section 406, 420 and 120B of the Indian Penal Code.

5. Mr. Ranjan Kumar Sinha, learned counsel for the opposite party no. 2 has supported the contention of the learned counsel for the petitioner. He has submitted that since good senses have prevailed between the parties and the complainant is peacefully living in her matrimonial home with dignity and honour, she is not interested in pursuing the complaint. He has further contended that a compromise petition has also been filed before the Magistrate concerned in this behalf.

6. I have heard learned counsel appearing for the parties and perused the record.

7. In view of the submissions made at the Bar, in my opinion, allowing the complaint case to continue before the court of Magistrate would be nothing but an abuse of the process of court.

8. In that view of the matter, the entire criminal proceedings arising out of Complaint Case No. 2008(c) of 2010

including the impugned order dated 24.01.2011 passed by the learned
Judicial Magistrate-1st Class, Patna is hereby quashed.

9. The application stands allowed.

(Ashwani Kumar Singh, J.)

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