

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.30709 of 2014

Arising Out of PS.Case No. -225 Year- 2014 Thana -NAWADAH
COMPLAINT CASE District- NAWADA (in all the three cases)

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Sumit Kumar Son of Joginder Verm Resident of Mohalla - Nunudiha, P.S.-
Sudamadiha, Block No. B-2, Quarter No. 4 Nunjdiha, Dist.- Dhanbad (Jharkhand)

.... Petitioner

With

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Criminal Miscellaneous No. 18420 of 2014

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1. Mahesh Kumar S/o Shri Laxmi Narayan Swarnkar
 2. Sweta Devi W/o Mahesh Kumar, D/o Shri Laxmi Narayan Swarnkar Both R/o
I-D, Ambey Villa, Near Jain Mandir, Shashtri Nagar (West) Dhowa Tand, P.S-
Bank More, District- Dhanbad (Jharkhand) Petitioners

With

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Criminal Miscellaneous No. 21960 of 2014

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1. Joginder Singh @ Joginder Varma @ Yogendra Verma s/o Shri Gurumukh
Singh
 2. Sudha Devi W/o Yogendra Verma
 3. Amit Kumar @ Kumar Amit Singh
 4. Bind @ Bindu Devi W/o Amit Kumar @ Kumar Amit Singh
 5. Manish Kumar S/o Shri Yogendra Verma All R/o I-D, Ambey Vila, Near Jain
Mandir, Shashtri Nagar (West), Dhowa Tand, P.S. - Bank More, District -
Dhanbad (Jharkhand) Petitioners

Versus

1. The State of Bihar
2. Smt. Malti Devi W/o Shri Sumit Kumar, D/o Late Sitaram Sao Presently residing
at - Village - Kauakol, P.S. - Kauakol, District – Nawadah
.. Opposite Parties in all the three cases

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Appearance :

For the petitioners : Mr. Jagannath Siingh, Advocate
For the State : Mrs. Asha Kumari, APP
For opp. party no.2 : Mr. Birju Prasad, Advocate

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CORAM: HONOURABLE MR. JUSTICE MADHURESH PRASAD
ORAL JUDGMENT

Date: 08-11-2017

Petitioner Sumit Kumar and opposite party no. 2 Smt
Malti Devi, who happens to be his wife, are present in the Court in
person along with their respective counsels. Counsel for the State is
also present.

Petitioners pray for quashing order dated 10.3.2014,



passed by the court of the Sub Divisional Judicial Magistrate, Nawadah in Complaint case no. 225 of 2014 by which the court below has issued summons against the petitioners after taking cognizance of offence under section 498A IPC and under section 4 of the Dowry Prohibition Act.

From perusal of the previous order dated 13.9.2017, it appears that the parties have come to a settlement, subject to payment of one time settlement amount of Rs.7,50,000/- in favour of the opposite party no.2. Today, in the Court, petitioners have handed over a bank draft of Rs.7,50,000/- dated 4.9.2017 bearing no. 324822 drawn on SBI, Digwadih, to the opposite party no.2. A joint compromise petition, i.e., second joint compromise petition dated 6.11.2017, signed by the petitioners and the opposite party no.2 has also been brought on record in compliance.

Counsel for the petitioners submits that a copy of the joint compromise petition dated 6.11.2017 has also been filed by the petitioners and the opposite party no. 2 in Complaint case no. 225 of 2014, pending in the court of the Sub Divisional Judicial Magistrate, Nawada, where the parties have acknowledged compromise of the said case on payment of Rs.7,50,000/- to the opposite party no. 2, in Divorce case no. 321 of 2016 as well as in the Maintenance Case No. 61 of 2011, pending in the court of the Principal Judge, Family Court, Nawada. It is also submitted by the parties that the joint compromise petition has also been filed in CP Case no. 431 of 2011 filed by the petitioner Mahesh Kumar against brothers of the opposite party no.2, pending in the court of the Judicial Magistrate, 1st class, Bokaro.

The parties have amicably settled their matrimonial dispute and now wish to pursue their life peacefully and independently. It is jointly stated that the proceeding pending between them in the above noted various proceedings arising out of their matrimonial dispute would not serve any purpose.



In view of the aforesaid development, it is apparent that the parties have resolved their entire dispute. Further, in the light of compromise between the offender and the victim, the possibility of conviction is remote and bleak. The conviction in criminal case would only cause prejudice and extreme hardship to the parties. In the instant case, the multiple dispute arising between the petitioners and opposite party no.2, noted above, are offshoot of the matrimonial discord where the wrong is basically private or personal in nature and by now parties have resolved their entire dispute. In this connection, it would be relevant to refer to the judgment pronounced in cases of **B.S. Joshi Vs. State of Haryana**, reported in (2003) 4 SCC 675, **Nikhil Merchant Vs. CBI** (2008) 9 SCC 677 and **Manoj Sharma Vs. State**, reported in (2008) 16 SCC 1.

On a reference made with regard to the said three judgments involving the inherent power of the High Court under Section 482 Cr.P.C. to quash the criminal proceedings against an offender who has settled his dispute with the victim of the crime but the crime in which he is allegedly involved is not compoundable under Section 320 Cr.P.C., the constitution bench has laid down the law with regard to the power of the High Court under section 482 Cr.P.C. in a judgment in case of **Gian Singh Vs. State of Punjab and another**, reported in (2012) 10 Supreme Court Cases 303. In the case of **Gian Singh (Supra)**, the Apex court has cautioned before exercise of inherent power of quashing criminal proceeding having regard to the nature and gravity of the crime and its social impact while excluding heinous and serious offences of mental depravity, murder, rape, dacoity, etc. as regards offences arising out of matrimony relating to dowry (as in this case), the Apex court has held that the quashing of offence or criminal proceedings on the ground of settlement between an offender and victim is not the same thing as compounding of offence. They are different and not



interchangeable. The Apex court has further held that the High court may quash the criminal proceeding in view of the compromise of the offender and the victim, although the offences are not compoundable. Continuation of criminal proceedings have been held to be an exercise in futility and justice in the case demands that the dispute between the parties is put to an end and peace is restored. I consider it opt to deduce the relevant extract from paragraph 61 of the judgment which is as follows:-

“But the criminal cases having overwhelmingly and predominatingly civil flavour stand on different footing for the purposes of quashing, particularly the offences arising from commercial, financial, mercantile, civil, partnership or such like transactions or the offences arising out of matrimony relating to dowry, etc. or the family disputes where the wrong is basically private or personal in nature and the parties have resolved their entire dispute. In this category of cases, High Court may quash criminal proceedings if in its view, because of the compromise between the offender and victim, the possibility of conviction is remote and bleak and continuation of criminal case would put accused to great oppression and prejudice and extreme injustice would be caused to him by not quashing the criminal case despite full and complete settlement and compromise with the victim. In other words, the High Court must consider whether it would be unfair or contrary to the interest of justice to continue with the criminal proceeding or continuation of the criminal proceeding would tantamount to abuse of process of law despite settlement and compromise between the victim and wrongdoer and whether to secure the ends of justice, it is appropriate that criminal case is put to an end and if the answer to the above question(s) is in affirmative, the High Court shall be well within its jurisdiction to quash the criminal proceeding.”

Said proposition of law has recently been reiterated by the Apex court case of **Parba tbhai Aahir @ Parbatbhai BhimsinhBhai Karmur and others Vs. State of Gujrat and another**, reported in **AIR 2017 SC 4843**.

Having considered the aforesaid submissions and the law laid down by the Apex court as noticed above, the entire proceedings arising out of Complaint case no. 225 of 2014 and the



order dated 10.3.2014, whereby cognizance has been taken for the offences under section 498A IPC and section 4 of the Dowry Prohibition Act are quashed. Cr.Misc.No.30709/2014 filed by Sumit Kumar, husband of opposite party no. 2, as also Cr.Misc.No.18420 of 2014 filed by Mahesh Kumar, brother-in-law and Sweta Devi, sister-in-law of the opposite party no. 2 and Cr.Misc.No. 21960/2014 filed by Joginder Singh @ Joginder Verma @ Yogendra Verma, father-in-law, Sudha Devi, mother-in-law, Amit Kumar @ Kumar Amit Singh, brother-in-law, Bind @ Bindu Devi, sister-in-law and Manish Kumar, brother-in-law of the opposite party no. 2, are hereby allowed.

As regards Divorce case no. 321 of 2016 and Maintenance Case No. 61 of 2011, pending in the court of the Principal Judge, Family Court, Nawada as well as other cases arising out of the matrimonial discord, the respective parties would be at liberty to approach the court for expeditious disposal of the cases in accordance with law.

(Madhuresh Prasad, J)

Shashi.

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CAV DATE	NA
Uploading Date	22.11.2017
Transmission Date	22.11.2017

