

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**Criminal Miscellaneous No.15569 of 2016**

Arising Out of PS.Case No. -2035 Year- 2015 Thana -MUZFFARPUR COMPLAINT CASE  
District- MUZAFFARPUR

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1. Uday Shankar, Son of Late Rajendra Rai.  
2. Abhay Shankar, Son of Late Rajendra Rai.  
3. Suman Devi, Wife of Late Rajendra Rai ALL are resident of Village-  
Kuleshara, P.S.- Sakra, District- Muzaffarpur and at Present residing at  
Majhauri Dharamdas (Kachhi Pakki), P.S.- Sadar, District- Muzaffarpur.

.... .... Petitioner/s

Versus

1. The State of Bihar  
2. Sarita Devi, wife of Late Vijay Shankar, resident of Village Kuleshara,  
P.S.- Sakra, District- Muzaffarpur.

.... .... Opposite Party/s

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**Appearance :**

For the Petitioner/s : Mr. Krishna Chandra

For the Opposite Party/s : Mr. B.N.Pandey(App)

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**CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR  
SINGH**

**ORAL ORDER**

3      26-04-2017

Heard learned counsel for the parties.

The present application has been filed on behalf of  
petitioner nos. 1 and 2, namely, Uday Shankar and Abhay Shankar  
being brothers of the late husband of the O.P. No.2 Sarita Devi  
and petitioner no. 3 being mother of petitioner nos. 1 and 2 for  
quashing the order dated 18.2.2016 passed in Cr. Appeal No. 97 of  
2015 by the learned 3<sup>rd</sup> Additional Sessions Judge, Muzaffarpur  
whereby the order dated 28.10.2015 passed by the learned Judicial  
Magistrate Ist Class, Muzaffarpur in Domestic Violence Case no.  
2035 of 2015 has been upheld, whereby the petitioners were



directed to make payment of rupees fifteen thousand per month to O.P. No. 2 for maintenance, rupees five thousand per month each to the three children of O.P. No. 2 and rupees fifty thousand for mental torture and medical expenses. Hence, prayer has been made for quashing the order dated 28.10.2015 passed by the learned Judicial Magistrate Ist Class, Muzaffarpur in Domestic Violence Case no. 2035 of 2015, as well as the appellate order dated 18.2.2016 passed in Cr. Appeal No. 97 of 2015 by the learned 3<sup>rd</sup> Additional Sessions Judge, Muzaffarpur.

It is submitted by learned counsel for the petitioners that accusation has been levelled in the background of partition dispute. Since husband of O.P. No. 2 died, hence O.P. No. 2 filed Domestic Violence Case No. 2035 of 2015 wherein the aforesaid order dated 28.10.2015 was passed. The said order was challenged by the petitioners in Cr. Appeal no. 97 of 2015 but the same was dismissed by the learned 3<sup>rd</sup> Additional Sessions Judge, Muzaffarpur vide order dated 18.2.2016.

It is further submitted that the purpose of filing the case by the O.P. No. 2 was only to get the property partitioned. The partition suit was filed by the petitioners wherein the O.P. No. 2 was party defendant and in the said partition suit O.P. No. 2 entered into compromise with the petitioners and consequently, on



the basis of compromise, the judgment dated 19.12.2016 was passed and decree dated 4.1.2017 was prepared. The same have been brought on record as Annexure 6 to the supplementary affidavit. Consequently the complainant filed a petition before the learned Judicial Magistrate Ist Class, Muzaffarpur in Domestic Violence Case No. 2035 of 2015 (Trial No. 5330 of 2015) stating therein that she has entered into compromise and she does not want to pursue the matter. The said compromise petition is Annexure 7 to the supplementary affidavit.

Today, a counter affidavit has been filed on behalf of O.P. No. 2 and statement has been made in paragraph 3 of the counter affidavit to the effect that the issue has been resolved and she does not have any grievance against the petitioners which reads as follows:

“That the deponent humbly submits that pursuant to the aforesaid settlement, she has no grievance against the petitioners.”

Mr. Nachiketa Jha, learned counsel for O.P. No. 2 submits that since the grievances of the O.P. No. 2 has been redressed, O.P. No. 2 is not pressing for implementation of the order passed in the domestic violence case and is not opposing the quashing of the order passed in domestic violence case as also the



appellate order.

Accordingly, the order dated 18.2.2016 passed in Cr. Appeal No. 97 of 2015 by the learned 3<sup>rd</sup> Additional Sessions Judge, Muzaffarpur as well as the order dated 28.10.2015 passed by the learned Judicial Magistrate Ist Class, Muzaffarpur in Domestic Violence Case no. 2035 of 2015 are hereby quashed.

This application is, accordingly, allowed.

**(Dinesh Kumar Singh, J)**

Anil/-

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