

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.17587 of 2014

Arising Out of PS.Case No. -720 Year- 2013 Thana -BHAGALPUR COMPLAINT CASE District-
BHAGALPUR

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1. Arun Kumar Gupta @ Arun Kumar @ Munna, son of Kanta Prasad Gupta, R/o Village- Kumhrar Toli (Tulsi Mishra Lane), Champanganagar, P.S. Nathnagar, District Bhagalpur

.... Petitioner/s

Versus

1. The State of Bihar
2. Sarita Devi, D/o Arun Kumar, R/o village- Madedda, P.S. Sanhaula, District Bhagalpur

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Swapnil Kumar Singh, Advocate

For the Opposite Party No.1: Mr. Ram Naresh Rai, APP

For the Opposite Party No.2: Mr. Praveen Kumar, Advocate

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CORAM: HONOURABLE MR. JUSTICE SANJAY PRIYA

ORAL JUDGMENT

Date: 13-10-2017

1. This application under Section 482 of the Code of Criminal Procedure has been filed for quashing the order dated 19.09.2013 passed by the Sub-Divisional Judicial Magistrate, Bhagalpur, in Complaint Case No.720 of 2013 by which learned Magistrate after holding enquiry has found *prima facie* case against the petitioner and others for the offence under Section(s) 498-A, 494 Indian Penal Code and Section 34 of the Dowry Prohibition Act.

2. Counsel for the petitioner as well as Opposite Party No.2 are present.

3. Counsel for the petitioner has submitted that matter has been settled outside the Court between the parties. In terms of



the aforesaid settlement, petitioner is making payment of Rs.1,50,000/- (One lac fifty thousand) by Demand Draft prepared in the name of the Opposite Party No.2, which has been handed over to the counsel for the Opposite Party No.2 in the Court itself, and the same has been accepted by him.

4. In support of settlement arrived at between the parties, petitioner has also filed Supplementary Affidavit sworn by Neha, daughter of the Petitioner and Opposite Party No.2, who is living with her father (Petitioner). It has been submitted in the Supplementary Affidavit that at the instance of well wishers of the parties one time settlement has been arrived at between the parties and it has been consented by both the parties that the petitioner (husband) will pay lump sum Rs.1,50,000/- to the Opposite Party No.2 (wife). Opposite Party No.2 has also expressed her willingness not to further pursue the present case. Xerox copy of the Demand Draft has been annexed as Annexure-2. It has further been submitted in the Supplementary Affidavit that deponent is daughter of the Petitioner and Opposite Party No.2. She has attained majority and is living with her father. She has expressed her willingness to remain with him.

5. Counsel for the Opposite Party No.2 has submitted that he has talked with Opposite Party No.2 and she has informed



about one time settlement between the parties. He has further submitted that son is living with mother (Opposite Party No.2), whereas, daughter is living with the father (Petitioner).

6. Counsel for the Opposite Party No.2 has also accepted the Demand Draft prepared in the name of the Opposite Party No.2 by the petitioner.

7. Counsel for the petitioner has relied upon a decision of the Supreme Court in the case of ***B.S. Joshi Vs. State of Haryana*** reported in ***(2003)4 SCC 675***, wherein, the Hon'ble Supreme Court has held that the High Court in exercise of inherent power can quash criminal proceeding or the First Information Report or Complaint and Section 320 of the Code does not limit or affect the powers under Section 482 of the Code.

8. Learned counsel for the petitioner has further placed reliance on the decision of our own High Court in the case of ***Amit Gupta Vs. State of Bihar*** reported in ***2017 (2) PLJR 182***.

9. In such circumstances, when the parties have entered into agreement/settlement, which has been affirmed by the counsel for the Opposite Party No.2, after seeking instructions from her, this Court is of the view that continuance of instant criminal prosecution against the petitioner in the Court below will be mere harassment to him.



10. Accordingly, the impugned order dated 19.09.2013 passed by the Sub-Divisional Judicial Magistrate, Bhagalpur, in Complaint Case No.720 of 2013 along with entire criminal proceeding against the petitioner is hereby quashed.

11. The application is, accordingly, allowed.

(Sanjay Priya, J)

J.Alam/-

AFR/NAFR	AFR
CAV DATE	N/A
Uploading Date	22-10-2017
Transmission Date	22-10-2017

