

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.21417 of 2012

Arising Out of PS.Case No. -0 Year- null Thana -null District- VAISHALI(HAJIPUR)

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Jay Mangal Prasad Singh, S/o Late Ram Chandra Singh, Resident of Village-
Kushdi, Police Station- Lalganj, District- Vaishali at Hajipur.

.... Petitioner

Versus

1. The State of Bihar
2. Punam Kumari, W/o Mukund Kumar Singh, Resident of Sonpur, District- Saran
at Chapra.

.... Opposite Parties

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Appearance :

For the Petitioner/s : Mr. Bindhyachal Singh, Advocate

Mr. Satya Prakash, Advocate

For the State : Dr. Mayanand Jha, APP

For the Opposite party no.2: Mr. Braj Nandan Tiwary, Advocate

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CORAM: HONOURABLE MR. JUSTICE ASHWANI KUMAR SINGH

ORAL JUDGMENT

Date: 11-04-2017

Heard Mr. Bindhyachal Singh, learned Advocate for
the petitioner and Mr. Braj Nandan Tiwary, learned counsel
appearing for the opposite party no.2.

2. This application under Section 482 of the Code of
Criminal Procedure has been filed by the petitioner for quashing of
the order dated 14.03.2012 passed by the learned Chief Judicial
Magistrate 1st Class, Vaishali, Hajipur in Complaint Case No. 1782



of 2006 whereby the application preferred under Section 245 of the Code of Criminal Procedure (for short “Cr.P.C.”) seeking discharge from the complaint has been rejected.

3. In the complaint petition, the complainant has stated that she was appointed in Satyendra Narain Singh College in the department of Sociology as lecturer on 16.09.1993 and since then she is working regularly in the college. She alleged that on 28.08.1993, Rs. 15,000/- was taken by the petitioner who was the then Convener of the college, but no receipt was granted by him and the said amount was not deposited in the college account. She has further alleged that the petitioner demanded Rs.20,000/- from the complainant and when she expressed her helplessness in making the payment, she was threatened that some body else will be appointed in her place. Lastly, it is alleged that the complainant's name was removed from page no. 50 of the proceedings of the Managing Committee, but in place of complainant no other name was incorporated, as in the meantime, the proceeding book was submitted to the Sub Divisional Officer.

4. The complainant was examined on oath and, besides the complainant, three other witnesses were examined in course of inquiry conducted under Section 202 of the Cr.P.C., whereafter, finding a prima facie case to be made out under



Sections 406, 468 and 477 of the Indian Penal Code, the petitioner was summoned to face trial.

5. At the stage of framing of charge, an application under Section 245 of the Cr.P.C. was filed on behalf of the petitioner seeking discharge from the case, which has been rejected vide order dated 14.03.2012.

6. At this stage, learned counsel for the petitioner has drawn my attention towards a supplementary affidavit filed today. Referring to the supplementary affidavit, a submission has been made that the parties have settled their dispute outside the court and a joint compromise petition has already been filed in the court of A.C.J.M.-5th, Vaishali, Hajipur on 22.07.2016. He submitted that the dispute is purely of a private nature and in view of the compromise arrived at between the parties, no useful purpose would be served by compelling the petitioner to face rigormole of trial.

7. Mr. Braj Nandan Tiwary, learned counsel for the opposite party no.2 supports the factum of compromise. He submitted that the parties have settled their dispute and the complainant does not intend to proceed further with the case before the court below any more.

8. Having heard the parties, in view of the amicable



settlement of dispute between the parties, it is to be seen by this Court as to whether the complaint can be quashed on this score alone.

9. In what cases power to quash the criminal proceeding or complaint or FIR under Section 482 of the Cr.P.C. may be exercised where the offender and the victim settled their dispute was examined by a three Judge Bench of the Supreme Court in **Gian Singh vs. State of Punjab and Anr. [(2012) 10 SCC 303]**. In the said case, the Supreme Court, while recognizing the need of amicable resolution of disputes observed as under:-

“ ... Inherent power is of wide plenitude with no statutory limitation but it has to be exercised in accord with the guideline engrafted in such power viz; (i) to secure the ends of justice or (ii) to prevent abuse of the process of any Court. In what cases power to quash the criminal proceeding or complaint or F.I.R may be exercised where the offender and victim have settled their dispute would depend on the facts and circumstances of each case and no category can be prescribed. However, before exercise of such power, the High Court must have due regard to the nature and gravity of the crime. Heinous and serious offences of mental depravity or offences like murder, rape, dacoity, etc. cannot be fittingly quashed even though the



victim or victim's family and the offender have settled the dispute. Such offences are not private in nature and have serious impact on society. Similarly, any compromise between the victim and offender in relation to the offences under special statutes like Prevention of Corruption Act or the offences committed by public servants while working in that capacity etc; cannot provide for any basis for quashing criminal proceedings involving such offences. **But the criminal cases having overwhelmingly and pre-dominatingly 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”.

(emphasis supplied)

10. The aforesaid decision has been reiterated by the Supreme Court in **Narinder Singh vs. State of Punjab [(2014) 6 SCC 467]**. In that case, the Supreme Court has laid down the following principles by which the High Court would be guided in giving treatment to the settlement between the parties and exercising its power under Section 482 of the Cr.P.C. while accepting the settlement and quashing the proceedings:-

“29.1. Power conferred under Section 482 of the Code is to be distinguished from the power which lies in the Court to compound the offences under Section 320 of the Code. No doubt, under Section 482 of the Code, the High



Court has inherent power to quash the criminal proceedings even in those cases which are not compoundable, where the parties have settled the matter between themselves. However, this power is to be exercised sparingly and with caution.

29.2. When the parties have reached the settlement and on that basis petition for quashing the criminal proceedings is filed, the guiding factor in such cases would be to secure:

- (i) ends of justice, or
- (ii) to prevent abuse of the process of any court.

While exercising the power the High Court is to form an opinion on either of the aforesaid two objectives.

29.3. Such a power is not to be exercised in those prosecutions which involve heinous and serious offences of mental depravity or offences like murder, rape, dacoity, etc. Such offences are not private in nature and have a serious impact on society. Similarly, for the offences alleged to have been committed under special statute like the Prevention of Corruption Act or the offences committed by public servants while working in that capacity are not to be quashed merely on the basis of compromise between the victim and the offender.

29.4. On the other hand, **those criminal cases**



having overwhelmingly and predominantly civil character, particularly those arising out of commercial transactions or arising out of matrimonial relationship or family disputes should be quashed when the parties have resolved their entire disputes among themselves.

29.5. While exercising its powers, the High Court is to examine as to whether the possibility of conviction is remote and bleak and continuation of criminal cases would put the accused to great oppression and prejudice and extreme injustice would be caused to him by not quashing the criminal cases.

29.6. Offences under Section 307 IPC would fall in the category of heinous and serious offences and therefore is to be generally treated as crime against the society and not against the individual alone. However, the High Court would not rest its decision merely because there is a mention of Section 307 IPC in the FIR or the charge is framed under this provision. It would be open to the High Court to examine as to whether incorporation of Section 307 IPC is there for the sake of it or the prosecution has collected sufficient evidence, which if proved, would lead to proving the charge under Section 307 IPC. For this purpose, it would be open to



the High Court to go by the nature of injury sustained, whether such injury is inflicted on the vital/delegate parts of the body, nature of weapons used etc. Medical report in respect of injuries suffered by the victim can generally be the guiding factor. On the basis of this prima facie analysis, the High Court can examine as to whether there is a strong possibility of conviction or the chances of conviction are remote and bleak. In the former case it can refuse to accept the settlement and quash the criminal proceedings whereas in the later case it would be permissible for the High Court to accept the plea compounding the offence based on complete settlement between the parties. At this stage, the Court can also be swayed by the fact that the settlement between the parties is going to result in harmony between them which may improve their future relationship.

29.7. While deciding whether to exercise its power under Section 482 of the Code or not, timings of settlement play a crucial role. Those cases where the settlement is arrived at immediately after the alleged commission of offence and the matter is still under investigation, the High Court may be liberal in accepting the settlement to quash the criminal proceedings/investigation. It is because of the reason that at this stage the investigation is still



on and even the charge sheet has not been filed. Likewise, those cases where the charge is framed but the evidence is yet to start or the evidence is still at infancy stage, the High Court can show benevolence in exercising its powers favourably, but after prima facie assessment of the circumstances/material mentioned above. On the other hand, where the prosecution evidence is almost complete or after the conclusion of the evidence the matter is at the stage of argument, normally the High Court should refrain from exercising its power under Section 482 of the Code, as in such cases the trial court would be in a position to decide the case finally on merits and to come a conclusion as to whether the offence under Section 307 IPC is committed or not. Similarly, in those cases where the conviction is already recorded by the trial court and the matter is at the appellate stage before the High Court, mere compromise between the parties would not be a ground to accept the same resulting in acquittal of the offender who has already been convicted by the trial court. Here charge is proved under Section 307 IPC and conviction is already recorded of a heinous crime and, therefore, there is no question of sparing a convict found guilty of such a crime”.

(emphasis mine)



11. Reverting back to the facts and circumstances of the present case, it would be evident that the entire controversy between the parties is purely private and personal in nature and since the matter has amicably been settled and the complainant is not willing to pursue the matter, no useful purpose would be served by continuing with the trial of the case. In order to secure the ends of justice and prevent the abuse of the process of the court and keeping in mind the ratio laid down by the Supreme Court in the cases discussed, hereinabove, it deemed expedient to quash the complaint case.

12. Accordingly, the Complaint Case No.1782 of 2006 and all the proceedings arising therefrom including the order dated 14.03.2012 are hereby quashed.

(Ashwani Kumar Singh, J.)

Sanjeet/-

AFR/NAFR	NAFR
CAV DATE	NA
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