

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.45156 of 2014

Arising Out of P.S.Case No. -2993 Year- 2010 Thana -PATNA COMPLAINT CASE District-
PATNA

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Gunwant Jha Son of Sri Maheshwar Jha resident of Mohalla- Jagnnathpuri
Barmasia, P.S.- Sahayak Thana, District- Katihar

.... Petitioner

Versus

1. The State of Bihar
2. Sweta daughter of Late Bedanand Thakur R/o Gandhi Gram, P.S.- Barai,
Distt.- Katihar, A/P resident of Onyx Dental Care & Implant Centre, P.O. &
P.S. & District- Katihar

.... Opposite Parties

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Appearance :

For the Petitioner : Mr. Manoj Kumar Jha, Advocate
For the Opposite Party No.2 : Mr. Om Prakash Singh, Advocate.
For the State : Mr. Akhileshwar Dayal, APP

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CORAM: HONOURABLE MR. JUSTICE SANJAY KUMAR

ORAL JUDGMENT

Date: 18-09-2017

This criminal miscellaneous application under Section 482 of the Cr.P.C. has been filed to quash the order dated 19.01.2012 passed by Judicial Magistrate, Ist Class, Patna in Complaint Case No.2993(C) of 2010 whereby and whereunder the cognizance for the offence under Sections 323, 504 and 379 of the IPC was taken against the petitioners.

2. Heard learned counsel for the petitioners, learned counsel for the Opposite Party No.2 as well as learned APP for the State.

3. The petitioner is the husband of Opposite Party No.2 and he was married in the year 1998. After marriage he used



to torture and assault the Opposite Party No.2. It has been alleged that on 12.10.2010 when the Opposite Party No.2 along with her friend Vandana Jha after treatment was returning, this petitioner along with two others intercepted and forcibly took signature of complainant on pistol point and also snatched an amount of Rs.10,000/-.

4. It has been submitted that the petitioner is a school teacher and after marriage his wife (Opposite Party No.2) was admitted at Dental College, Lahariasarai where she developed intimacy with the college colleague. The Opposite Party No.2 refused to lead conjugal life and left visiting at her husband's place. The petitioner filed a matrimonial case no.435 of 2010 on 30.09.2010 under section 9 of the Hindu Marriage Act for restitution of conjugal right. After filing of the matrimonial case a Panchayati was convened on 10.01.2011 and both parties entered into an agreement to settle their dispute as per compromise. After filing of matrimonial case, the wife Opposite Party No.2 has filed the present complaint case. After intervention of well-wishers, a deed of agreement was executed by them vide Annexure-3 of this application. As per compromise, both parties agreed to dissolve their marriage by filing divorce petition under Section 13-B of the Marriage Act. Both the parties further agreed to withdraw the



cases which were filed against each other. Thereafter both the parties filed Matrimonial Case No.4 of 2011 under Section 13-B of Hindu Marriage Act which was allowed on 18.01.2012 and the marriage between both the parties was dissolved with effect from the decree. The allegation of torture has been disbelieved by the court below and cognizance for the offence under Sections 323, 504 and 379 of the IPC has been taken against the petitioner. The Opposite Party No.2 filed the complaint case after filing of matrimonial case of this petitioner. The allegation against this petitioner appears omnibus and so the impugned order is fit to be quashed.

5. On perusal of complaint petition, I find that the present case has been filed by the wife after the filing of case by her husband. The learned counsel for the petitioner fairly concedes that as per agreement, the parties have got their marriage dissolved mutually by a decree of divorce and after dissolution of marriage both the sides have married and are residing separately. The prosecution of this petitioner in view of settlement appears to be an abuse of the process of the Court.

6. Considering the submission of both sides as well as the facts and circumstances of the case, the order dated 19.01.2012 passed in Complaint Case No.2993 of 2010 passed by Judicial



Magistrate, Ist Class, Patna and criminal prosecution of the petitioner is quashed.

7. This criminal miscellaneous application is allowed.

(Sanjay Kumar, J)

B.Kr./-

AFR/NAFR	NAFR
CAV DATE	
Uploading Date	22.09.2017
Transmission Date	22.09.2017

