

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.33010 of 2013

Arising Out of PS.Case No. -67 Year- 2002 Thana -BAKHTIYARPUR District- PATNA

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Indradeo Singh @ Indradeo Pd. Singh Son of Late Fakira Singh Resident of
Village- Kakarhatta, P.S.- Bidupur, District- Vaishali.

.... Petitioner/s

Versus

1. The State of Bihar
2. Dayawati Devi Wife of Indradeo Singh Resident of Village- Kakarhatta, P.S.- Bidupur, District- Vishali, Presently Residing At Village- Rupas Marushi, P.S.- Bakhtiyarpur, District- Patna.

.... Opposite Party/s

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Appearance :

For the Petitioner/s	:	Mr. Sandip Kumar Mr. Ranavikram Singh
For the Informant/s	:	Dr. Raj Kumar Singh
For the State	:	Mr. Bharat Lal, APP

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CORAM: HONOURABLE MR. JUSTICE SANJAY KUMAR

ORAL JUDGMENT

Date: 03-07-2017

1. The petitioner seeks quashing of the order dated 10.04.2010 passed by the learned Judicial Magistrate, 1st Class, Barh (Patna) in G.R. No. 322 of 2002 arising out of Bakhtiyarpur P.S. Case No. 67 of 2002 whereunder charges for the offence under Sections 494 and 498 were framed against the petitioners.

2. Heard both sides.

3. The facts, in brief, is that the O.P. no. 2 filed a complaint case on the file of A.C.J.M. Barh against her husband, who is the petitioner before this court and others for the offence under Section 498A and 494 of the IPC. The copy of the complaint petition was



sent to S.H.O. of Bakhtiyarpur P.S. for instituting the case and investigation. On the basis of said complaint petition, a police case vide Bakhtiyarpur P.S. Case No. 67 of 2002 was registered. The complainant has stated that she was married with this petitioner in the year 1965 and from the said wedlock she got a son namely, Tunna Kumar Singh. The husband of the petitioner was in service and while posted at Khagaria, he came in contact with a lady with whom he subsequently married. She has further alleged that her husband started torturing her and so she in compelling circumstance came at her brother's place and started residing there.

4. The learned counsel for the petitioner submits that at the time of marriage, the petitioner was aged about ten years and his marriage actually took place in the year 1957. At the time of marriage, the complainant was aged about twenty years. The complainant voluntarily left the petitioner in the year 1976 and started residing in her *Maika* at Bakhtiyarpur. The family members solemnized the marriage of this petitioner with another lady namely, Shakuntala Devi in the year 1980. She filed a Maintenance Case no. 82M/2003 in the court of Principal Judge, Family court Patna. The complainant's son filed a Partition Suit No. 702 of 2004/11 of 2005 in the court of Sub-Judge, Vaishali. All the aforesaid cases have been settled and a compromise petition has been filed. After the



retirement of the petitioner, the amount received from C.P.F. and Group Insurance have been given to the son of the complainant. The landed property has also been partitioned and a compromise petition has been filed before the court of Sub-Judge-III, Vaishali. The present case has also been compromised and a compromise petition duly signed by both the parties along with a petition seeking permission to compound the case has also been filed. The learned counsel in support of his contention has referred the order dated 26.07.2008 passed in Bakhtiyarpur P.S. Case No. 67 of 2002. He further submitted that on account of settlement between the parties, the criminal prosecution of the petitioner would amount to abuse the process of Court. The O.P. no. 2 has died and so there is nobody to proceed with this case particularly in view of compromise entered into by the parties.

5. Learned counsel for the O.P. no. 2 concedes to the submission of the learned counsel for the petitioner by submitting that the O.P. no. 2 has died in the month of February, 2017 and that the case has been compromised.

6. On perusal of annexures available with the application, I find that a compromise petition was filed before the court below on 26.08.2008 along with the petition seeking permission to compound the case. The said petitions were kept on record as by that time final



report was not received from the police and the case remain pending.

On receipt of charge-sheet, the court below took cognizance and framed the charges in routine manner. It appears that the maintenance case pending before the Principal Judge, Family Court and Partition Suit have been compromised. There appears no dispute between the parties and so continuance of proceeding would amount to abuse of the process of court.

7. In view of the discussions made above, the order dated 10.04.2010 framing charges against the petitioner as well as criminal prosecution of this petitioner is quashed and this criminal miscellaneous application is allowed.

(Sanjay Kumar, J)

rohit/-

AFR/NAFR	NAFR
CAV DATE	N.A.
Uploading Date	07.07.2017
Transmission Date	07.07.2017

