

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.30589 of 2014

Arising Out of PS.Case No. -2549 Year- 2013 Thana -SIWAN COMPLAINT CASE District-
SIWAN

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1. Sharda Devi Wife of Late Babu Sharma
2. Lal Babu Sharma Son of Late Bhagwat Sharma
3. Rohit Sharma Son of Late Babu Sharma
4. Sangeeta Devi D/o Lal Babu Sharma and W/o Dr. Ganesh Buvedi All residents of Village Ladhi Bazar, P.s.-Goreakothi, District-Siwan. At present 150, Madhupuri, Laherbag, Near Viskarma Mandir, P.S.-Kotwali, District-Sitapur (U.P.)

.... Petitioners

Versus

1. The State of Bihar
2. Anita Devi D/o Govind Sharma and W/o Rahul Sharma Resident of Pancha Mandir, Shanti Nagar, P.S.-Siwan (Town), District-Siwan.

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Satyapal Singh, Advocate
For the Opposite Party/s : Mr. U.L.Verma (App)

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CORAM: HONOURABLE MR. JUSTICE MADHURESH PRASAD

ORAL ORDER

9 19-07-2017

The instant petition has been filed for quashing the order dated 06.12.2013 passed by the learned S.D.J.M., Siwan in a proceeding arising out of Complaint Case No. 2549(C) of 2013 taking cognizance of the offences under sections 498(A), 406, 341, 323/34 of the Indian Penal Code.

The earlier notices were issued to the opposite parties vide order dated 07.08.2014 by this Court. After appearance of the opposite party no. 2 the petitioner and the opposite party expressed their agreement that on payment of Rs. 4,50,000/- and return of



golden necklace of the opposite party No. 2 said to be lying with the petitioner, the entire dispute would come to an end. The said submission was recorded in order dated 09.09.2015 and the modus for resolving the dispute was recorded in the said order of the Court below dated 30.09.2016 whereby the prayer for consent dissolution of marriage has been allowed.

On 30th June, 2017 counsel for the opposite parties had not appeared in the Court and the matter was adjourned. Counsel for the petitioner submits that in spite of giving information regarding listing of the case, the counsel for the opposite parties has chosen not to appear in Court again today. He has already placed on record the decree of divorce dated 28.10.2016 passed under Section 13B of the Hindu Marriage Act. The same is enclosed as Annexure-5 to the supplementary affidavit on behalf of the petitioner. In the earlier order dated 30.09.2016 passed by the Court of Principal Judge, Family Court at Siwan, also the agreed modus of resolution of disputes between the parties, in terms of this Court's order dated 09.09.2015, has been recorded.

From perusal of the same, it is apparent that the Opposite Party No. 2 has already expressed that she had received the said amount of Rs. 4,50,000/- and golden chain and that she



has no objection in disposal of the cases as the parties are now living independently.

In the facts and circumstances, continuance of the instant proceedings in the Court below, in view of the aforesaid resolution of matrimonial dispute the instant case would serve no useful purpose. More so, since the parties have parted gracefully and are carrying on their lives independently. This Court would refer to paragraph 58 of the judgment passed in the case of ***Gyan Singh Vs State of Punjab*** reported in ***(2012) 10 SCC 303*** more specifically paragraph 58 thereof, which reads as under :

“58. Where the High Court quashes a criminal proceeding having regard to the fact that the dispute between the offender and the victim has been settled although the offences are not compoundable, it does so as in its opinion, continuation of criminal proceedings will be an exercise in futility and justice in the case demands that the dispute between the parties is put to an end and peace is restored; securing the ends of justice being the ultimate guiding factor. No doubt, crimes are acts which have harmful effect on the public and consist in wrongdoing that seriously endangers and threatens well-being of the society and it is not safe to leave the crime- doer only because he and the victim have settled the dispute amicably or that the victim has been paid compensation, yet certain crimes have been made compoundable in law, with or without the permission of the Court. In respect of serious offences like murder, rape, dacoity, etc; or other offences of mental depravity under [IPC](#) or offences of moral turpitude under special statutes, like the Prevention of Corruption Act or the offences committed by



public servants while working in that capacity, the settlement between the offender and the victim can have no legal sanction at all. However, certain offences which overwhelmingly and predominantly bear civil flavour having arisen out of civil, mercantile, commercial, financial, partnership or such like transactions or the offences arising out of matrimony, particularly relating to dowry, etc. or the family dispute, where the wrong is basically to the victim and the offender and the victim have settled all disputes between them amicably, irrespective of the fact that such offences have not been made compoundable, the High Court may within the framework of its inherent power, quash the criminal proceeding or criminal complaint or F.I.R if it is satisfied that on the face of such settlement, there is hardly any likelihood of the offender being convicted and by not quashing the criminal proceedings, justice shall be casualty and ends of justice shall be defeated. The above list is illustrative and not exhaustive. Each case will depend on its own facts and no hard and fast category can be prescribed.”

In view of the aforesaid, quashing application is disposed of and the entire proceedings arising out of Complaint Case No. 2549(C) of 2013 under Sections 498(A), 406, 341, 323/34 of the Indian Penal Code is quashed in view of the resolution of the dispute between the parties.

(Madhuresh Prasad, J.)

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