

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.32559 of 2015

Arising Out of PS.Case No. -594 Year- 2014 Thana -BETTIAH TOWN District-
WESTCHAMPARAN(BETTIAH)

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1. Jagdish Prasad S/o Late Laxman Prasad
2. Shobha Jaiswal W/o Jagdish Prasad
3. Chandra Shekhar Jaiswal @ Chandra Shekhar S/o Jagdish Prasad
4. Abhishek Jaiswal @ Abhishek Kumar Jaiswal S/o Jagdish Prasad
All are Resident of Mohalla- Gyan Babu Chowk, P.O. and P.S. Motihari Town,
District East Champaran.

.... Petitioners

Versus

1. The State of Bihar.
2. Kumari Nisha Kant W/o Rakesh Ranjan, D/o Kamla Kant Prasad Resident of
Mohalla Indra Chowk, Ganj No. 1, P.O. and P.S. Bettiah Town, District West
Champaran.

.... Opposite Party/s

with

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Criminal Miscellaneous No. 35469 of 2015

Arising Out of PS.Case No. -594 Year- 2014 Thana -BETTIAH TOWN District-
WESTCHAMPARAN(BETTIAH)

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Rakesh Ranjan @ Raja Son of Jagdish Prasad resident of Mohalla- Gyan Babu
Chowk, P.O.+P.S. Motihari, town, District East Champaran.

.... Petitioner

Versus

1. The State of Bihar.
2. Kumari Nisha Kant w/o Rakesh Ranjan D/o Kamla Kant Prasad, resident of
Mohalla- Indira Chowk, Ganj No. 1, P.O. and P.s Bettiah town, district East
Champaran.

.... Opposite Parties.

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Appearance :

(In Cr.Misc. No.32559 of 2015)

For the Petitioner/s : Mr. Pravin Kumar, Advocate

For the State : Mr. Nityanand, APP

For Opposite Party No. 2 : Mr. Bimlesh Kumar Pandey, Advocate

(In Cr.Misc. No.35469 of 2015)

For the Petitioner/s : Mr. Pravin Kumar, Advocate

For the State : Mr. Ram Anurag Singh, APP

For Opposite Party No. 2 : Mr. Bimlesh Kumar Pandey, Advocate

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CORAM: HONOURABLE MR. JUSTICE ASHWANI KUMAR SINGH



ORAL JUDGMENT

Date: 30-08-2017

These two applications filed under Section 482 of the Code of Criminal Procedure (for short 'CrPC') arise out of Bettiah Town P. S. Case No. 594 of 2014 registered under Section 498-A read with 34 of the Indian Penal Code and Sections 3 and 4 of the Dowry Prohibition Act.

2. In Cr. Misc. No. 35469 of 2015, the petitioner is the husband of the informant and in Cr. Misc. No. 32559 of 2015, the petitioners are father-in-law, mother-in-law and brothers-in-law of the informant respectively.

3. In both these applications, the order dated 01.06.2015 passed by the learned Chief Judicial Magistrate, Bettiah in Bettiah (Town) P. S. Case No. 594 of 2014 whereby cognizance has been taken of the offences punishable under Section 498-A/34 of the Indian Penal Code and Sections 3 and 4 of the Dowry Prohibition Act has been challenged.

4. Mr. Pravin Kumar, learned counsel for the petitioners has submitted that petitioner Rakesh Ranjan @ Raja and opposite party no. 2, the informant of the case, have amicably resolved all their disputes. He has submitted that in view of the order dated 16.05.2017, these cases were sent to Patna High Court Mediation



Centre. The learned Mediator registered Mediation Proceeding No. 516 of 2017. In the course of mediation, a settlement was arrived at by which the parties agreed to bring to an end all the pending litigations between them. He has submitted that in terms of the settlement the petitioner Rakesh Ranjan @ Raja was required to pay Rs.3,50,000/- to the opposite party no. 2. He has submitted that in obedience to the terms of the compromise, the petitioner Rakesh Ranjan @ Raja has already handed over demand drafts worth Rs.3,50,000/- purchased in the name of the opposite party no. 2 to her counsel. Details of demand drafts are as under:-

Sl. No.	Draft No.	Date	Amount
1.	898956	20.02.2017	1,00,000/-
2.	898843	08.08.2017	40,000/-
3.	898844	08.08.2017	60,000/-
4.	898845	08.08.2017	70,000/-
5.	898846	08.08.2017	40,000/-
6.	898847	08.08.2017	40,000/-
Total			Rs.03,50,000/-

5. Learned counsel has submitted that after receipt of the aforesaid amount, the opposite party no. 2 is not interested in proceeding with the criminal case pending against the petitioners. He has submitted that a joint compromise petition has also been filed



before this Court, in terms of which, the petitioner Jagdish Prasad is required to withdraw/compromise Motihari (Town) P. S. Case No. 457 of 2016 instituted on the basis of complaint which was referred to the police for investigation in exercise of power conferred under Section 156(3) of the CrPC. He has contended that the said case was filed by the petitioner Jagdish Prasad in which accused Raj Kumar, who is a family friend of the informant of the case, has been made accused.

6. Mr. Bimlesh Kumar Pandey, learned counsel appearing for opposite party no. 2 does not dispute the aforestated contentions of the learned counsel for the petitioners. He conceded that in terms of the compromise, the husband of opposite party no. 2 has already handed over demand drafts worth Rs.3,50,000/- to opposite party no. 2. He has submitted that in terms of the compromise, opposite party no. 2 will withdraw Maintenance Case No. 278(M) of 2014 pending in the court of the learned Principal Judge, Family Court, Bettiah and will not claim maintenance against the petitioner Rakesh Ranjan @ Raja. He has also contended that the opposite party no. 2 will file a petition showing her consent for divorce in Divorce Case No. 323 of 2016 filed by petitioner Rakesh Ranjan @ Raja, pending in the court of learned Principal Judge, Family Court, East Champaran, Motihari. He has submitted that in view of the amicable settlement between the



parties, the informant is no more interested in prosecuting the petitioners in trial.

7. I have heard learned counsel for the parties and perused the record.

8. Though, the offences prescribed under Section 498-A of the Indian Penal Code and Sections 3 and 4 of the Dowry Prohibition Act are not compoundable under Section 320 of the CrPC, the power of the High Court in quashing a criminal proceeding or FIR or a complaint in exercise of its jurisdiction is distinct and different from the powers given to criminal court for compounding the offences under Section 320 of the CrPC.

9. In **Gian Singh Vs. State of Punjab [(2012) 10 SCC 303]**, the Supreme Court explained the distinction between Sections 320 and 482 of the CrPC. It observed as under :-

“61. The position that emerges from the above discussion can be summarised thus: the power of the High Court in quashing a criminal proceeding or FIR or complaint in exercise of its inherent jurisdiction is distinct and different from the power given to a criminal court for compounding the offences under Section 320 of the Code. 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 the 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 the affirmative, the High Court shall be well within its jurisdiction to quash the criminal proceeding.”

(emphasis mine)

10. Thus, it would be manifest that the offences arising out of matrimony, particularly relating to dowry, etc. or the family dispute, where the wrong is basically to the victim and 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 FIR, if it is satisfied that on the face of such settlement, there is hardly any likelihood of the offender being convicted. The Supreme Court has held that under such circumstances by not quashing the criminal proceedings, justice shall be casualty and ends of justice shall be defeated.

11. Keeping in view, the ratio laid down by the Supreme Court in **Gian Singh** (Supra), when I look to the facts of the present case, I find that the offences alleged arise out of matrimonial discord between the parties and the informant of the case has amicably resolved her dispute with her husband. The informant has also expressed her desire that in view of the changed circumstances, the prosecution of the petitioners be quashed.

12. Under such circumstances, in the opinion of this Court, by not quashing the criminal proceedings, justice shall be casualty and ends of justice shall be defeated. Accordingly, criminal prosecution of the petitioners and the order dated 01.06.2015 passed by the learned Chief Judicial Magistrate, Bettiah in Bettiah (Town) P. S. Case No. 594 of 2014 are quashed.



13. I am also of the opinion that since the parties have resolved their dispute and the petitioner Jagdish Prasad has also expressed his desire to compromise Motihari (Town) P. S. Case No. 457 of 2016, allowing the same to continue against the family friend or relative of the informant would further complicate the relationship between the parties in future. In order to secure the ends of justice as also to prevent abuse of the process of the court, it is desirable that the aforesaid case be also quashed.

14. In that view of the matter, the entire proceedings of Motihari (Town) P. S. Case No. 457 of 2016 registered under Section 386/34 of the Indian Penal Code also stands quashed.

15. These applications stand allowed.

16. The Registry is directed to send a copy of the order to the Session Judge, Motihari forthwith, so that the court dealing with Motihari (Town) P. S. Case No. 457 of 2016 be also informed about the order passed by this Court.

(Ashwani Kumar Singh, J.)

Kanchan/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	07.09.2017
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