

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.10594 of 2014

Arising Out of PS.Case No. -2989 Year- 2013 Thana -PATNA COMPLAINT CASE District-
PATNA

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1. Md. Fahim Alam @ Md. Fahim Son Of Md. Nasimuddin
 2. Md. Nasimuddin Son Of Late Ajimuddin @ Jamman Mian
 3. Tamanna Khatoon Wife Of Md. Nasimuddin
 4. Md. Jasim Son Of Md. Nasimuddin
 5. Md. Rafi Son Of Md. Nasimuddin All Resident Of Navin Nagar
Kakrara, P.S. Ariyari, District Sheikhpura

.... Petitioners

Versus

1. The State Of Bihar
2. Arfa Khatoon Wife Of Md. Fahim Alam Permanent Resident Of Village
Navin Nagar Kakrara, P.S. Ariyari, District Sheikhpura, At Present
Residing At Mohalla Minhas Colony, P.S. Fulwari Sarif, District Patna

.... Opposite Parties

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Appearance :

For the Petitioners : Mr. Durgesh Nandan, Advocate.

For the Opposite Parties : Mr. Sangeeta Sharma (APP)

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**CORAM: HONOURABLE MR. JUSTICE JITENDRA MOHAN
SHARMA**

ORAL ORDER

6 30-06-2017 This Criminal Miscellaneous has been filed for

quashing the order dated 10.12.2013 passed in Complaint Case

No. 2989C of 2013 by Sri Jyoti Prakash, the then Judicial

Magistrate, 1st Class, Patna, whereby and whereunder, the learned

Magistrate has been pleased to issue summons against the

petitioners as prima-facie case has been found against them under

section 498 A of the I.P.C.

Heard the learned counsel for the petitioners, the

learned counsel for the opposite party no.2 as well as the learned



counsel for the State.

The aforesaid complaint case was filed by the opposite party no.2 on 27.08.2013 alleging that the opposite party no.2 was married with petitioner no. 1 on 28.02.2000. At the time of marriage Rs. 11,000/- was given as Dain Muhar. Further by way of gift Rs. 1,20,000/- cash and articles of about Rs. 1,00,000/- was also given to the accused persons. The opposite party no.2 went to her Sasural. The behaviour of the accused persons was not proper, they started torturing and demanding more money, i.e. Rs. 2,00,000/- by way of extra dowry. Another complaint case no. 1175 of 2010 was filed in the court of S.D.J.M. Nawada which has been compromised and in the compromise petition some interpolation has been done as per the opposite party no.2. Thereafter in the Lok Adalat matter was put up and accordingly award was granted wherein also it is alleged by the opposite party no.2 that she has not appeared. The aforesaid complaint case bearing no. 2989 C of 2013 was enquired into and after considering the statement of the complainant on the solemn affirmation and the statements of Raviba Khatoon, Jonsa Praveen and Sabana Praveen the impugned order has been passed.

On behalf of the petitioners it is submitted that there is no interpolation in the compromise petition, vide Annexure-3, and



it was signed by both parties and their learned counsels. The compromise petition was signed on 08.05.2012 and thereafter in the National lok Adalat both parties appeared and accordingly award was passed on 23.11.2013, whereas, this complaint case has been filed on 27.08.2013 i.e. before the award of the National Lok Adalat when the matter has already been settled, so the order taking cognizance again is bad in law and is fit to be quashed. There was no occasion for further dispute as the dispute between the parties has been resolved once for all. Divorce between them has already taken place and the amount of Dain Mohar as well as gift has been paid. Nothing is due in between them and since then both having no concern with each other. Both were residing and leading their life separately. The instant case is nothing but the violation of compromise, divorce as well as judgment of award passed by the Lok Adalat. The petitioner no.1 is husband, petitioner no.2 is father-in-law, petitioner no.3 is mother-in-law and petitioner nos. 4 and 5 are Devers of opposite party no.2, but after award of Lok Adalat relationship between the parties has come to an end so there is no question of demand or torture by the petitioners.

The learned counsel for the opposite party no.2 and the learned APP, on the other hand, submit that there is no



illegality, incorrectness or impropriety in the impugned order. The learned Magistrate after considering the materials available on the record and the statement of the complainant on the solemn affirmation and the statements of the enquiry witnesses has come to the conclusion that prima-facie case is made out against the petitioners under section 498 A of the I.P.C. There is no need for any interference by this Court and as such this Criminal Miscellaneous is fit to be dismissed.

Having considered the submissions urged at the Bar, going through the impugned order and the record it is manifest that the present complaint case was filed on 27.08.2013, whereas, in the National Lok Adalat both parties have settled their dispute and accordingly the award was granted on 23.11.2013, so the complaint case filed is of earlier date and after filing of the complaint case both parties have resolved their dispute. On the record there is nothing to show that that the opposite party no.2 has raised any grievance against the award passed by the National Lok Adalat on 23.11.2013 and further she has raised objection regarding the compromise arrived at between the parties on 08.05.2012. There is nothing on the record by which it can be presumed that any interpolation has been done in the compromise arrived at between the parties.



Under the circumstances, the impugned order which has been passed subsequently on the basis of the complaint case filed on 27.08.2013 appears not legal, proper and justified and it is against the award of the National Lok Adalat.

In the result, the impugned order is hereby quashed and this Criminal Miscellaneous stands allowed.

(Jitendra Mohan Sharma, J)

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