

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.26373 of 2011

Arising Out of Complaint Case No. -932 Year- 2008 Thana -Jakanpur District- PATNA

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1. Manoranjan Kumar @ Munnu S/o Lalan Prasad Srivastava, R/o Bangali Hatta, Ara Jawahar Tola, P.S- Nawada, District- Bhojpur at Ara.
 2. Lalan Prasad Srivastava S/o Late Rajendra Srivastava, R/o Bangali Hatta, Ara Jawahar Tola, P.S- Nawada, District- Bhojpur at Ara
 3. Madhuri Devi @ Madhuri Srivastava W/o Lalan Prasad Srivastava, R/o Bangali Hatta, Ara Jawahar Tola, P.S- Nawada, District- Bhojpur at Ara.

.... Petitioner/s

Versus

1. The State of Bihar
2. Kavita Sahay W/o Manoranjan Kumar and D/o Mahesh Prasad Sahay, R/o Flat No. 102, Avinash Apartment, D.V.C. Chowk, New, Jakanpur, P.S- Jakanpur, District- Patna.

.... Opposite Party/s

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Appearance :

For the Petitioner/s : M/s Naresh Dikshit and Brij Bihari Verma, Advs.

For the Opposite Party/s : Mr. U.L. Verma, APP

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CORAM: HONOURABLE MR. JUSTICE SANJAY KUMAR

ORAL JUDGMENT

Date: 30-08-2017

Heard learned counsel for the petitioners and learned Additional Public Prosecutor for the State.

2. This criminal miscellaneous application under section 482 of the Code of Criminal Procedure has been filed to quash the order dated 18.07.2008 passed by the learned Sub-Divisional Judicial Magistrate, Patna in Complaint Case No. 932 of 2008. The learned Sub-Divisional Judicial Magistrate, as per impugned order, took cognizance for the offence under section 498A of the Indian Penal Code and section 3/4 of the Dowry Prohibition Act.

3. The petitioners are husband and parents-in-law of the



complainant (opposite party no. 2). The opposite party no. 2 had filed a Complaint Case No. 932 of 2008 against the petitioners and their family members. After enquiry, the learned Court below finding *prima facie* case has summoned the petitioners.

4. From the application and documents produced on behalf of the petitioners and submission of learned counsel, it appears that both the parties have compromised the case. The wife had filed a Matrimonial Case No. 5014 of 2014 against her husband. The marriage of the complainant with petitioner no. 1 took place on 20.04.2017. As per submission of learned counsel, the wife left the matrimonial house and started residing at the place of her parents without any rhyme or reason. She was not willing to lead conjugal life and so, the husband-petitioner no. 1 filed a Matrimonial Case No. 51 of 2008 on 10.04.2008 in the court of learned Principal Judge, Family Court, Ara under section 9 of the Hindu Marriage Act for restitution of conjugal life. After filing of the case of petitioner no. 1, the opposite party no. 2 had filed a Complaint Case No. 932 of 2008 on 15.04.2008 for the offences under sections 498A and other sections of the Indian Penal Code and the Dowry Prohibition Act. Thereafter, she had filed Divorce Case No. 380 of 2012 on 29.05.2012 for dissolution of marriage before the Principal Judge, Family Court, Patna. The opposite party no. 2. then filed another case bearing Matrimonial Case No. 5014 of 2014 before the Principal Judge, Family Court, Patna under the provision of section 13 (b) of the Hindu Marriage Act, which was allowed on 04.07.2015 and marriage between the spouse has been dissolved on their mutual consent as



per order dated 04.07.2015. The copy of judgment has been annexed as Annexure-3 to the supplementary affidavit. It further appears that both the parties have filed a compromise petition before the Court below in Complaint Case No. 932 of 2008 on 25.06.2015. The copy of compromise petition has been annexed as Annexure-5 to the supplementary affidavit. The opposite party no. 2 in spite of her appearance did not oppose the submission.

5. The documents as stated above, show that the marriage between the parties has been dissolved and they are residing separately. In such circumstance, the continuation of criminal prosecution of the petitioner on the basis of cognizance order would be an abuse of process of Court as no purpose would be served on deciding the case.

6. In the facts and circumstance of the case, this criminal miscellaneous application is allowed and the order dated 18.07.2008 passed by the learned Sub-Divisional Judicial Magistrate, Patna in Complaint Case No. 932 of 2008 and criminal prosecution of this petitioner on the basis of said cognizance order, is hereby quashed.

(Sanjay Kumar, J)

Mahesh/-

AFR/NAFR	NAFR
CAV DATE	N/A
Uploading Date	6.9.2017
Transmission Date	6.9.2017

