

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.46135 of 2013

Arising Out of PS.Case No. - 20 Year- 2011 Thana – Bhagawan Bazar District- SARAN

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Ashok Kumar, Son of Shri Bishwanath Prasad, Resident of Ayodhya Lal Ki Gali,
P.O.- Dumraon, P.S.- Dumraon, District- Buxar

.... Petitioner

Versus

1. The State of Bihar
2. Amrita Kumari Gupta, W/o Ashok Kumar and D/O Krishna Prasad Gupta,
Resident of Gupta Cycle Store, Bhagwan Bazar Chowk, Chapra, P.O. & P.S.
Bhagwan Bazar, District- Saran

.... Opposite Parties

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Appearance:

For the Petitioner/s : Mr. Tuhin Shankar, Advocate.

For the Opposite Party/s : None.

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CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD

CAV JUDGMENT

Date: 19-07-2017

Heard Sri Tuhin Shankar, learned counsel for the
petitioner.

2. No one appeared either for the opposite party no. 2 or
the State in the present case when the matter was heard and judgment
was reserved on 12.07.2017.

3. The petitioner in the present case is seeking quashing
of order dated 12.11.2012 passed by learned Judicial Magistrate 1st
Class, Chapra in Complaint Case No. C 599/2012 (arising out of
Bhagawan Bazar P.S. Case No. 20/2011) by which the learned
Magistrate has taken cognizance of the offences alleged under
Sections 323, 504 and 379 of the Indian Penal Code on the basis of



the protest petition filed by the informant / complainant against the police report.

4. Since the petitioner has been summoned by the learned Magistrate he has moved this Court for quashing of the order impugned in the present case.

5. The opposite party no. 2 in the present case happened to be the wife of the petitioner, however, during pendency of the present application both the petitioner and the opposite party no. 2 decided to get a decree of divorce with mutual consent. The opposite party no. 2 filed Divorce Case No. 45/2016 in the Family Court at Chapra in which the parties filed their petitions requesting the court to grant divorce with mutual consent. In paragraph 4 of the application (Annexure-8 to the Supplementary Affidavit filed on behalf of the petitioner) it is specifically stated that the opposite party no. 2 has received a sum of rupees ten lacs as lumpsum payment towards her maintenance and the maintenance of her minor son Rajvir. In Paragraph 4 of the application filed before the Family Court at Chapra it is further stated that because the parties have entered into the settlement with their mutual consent they have decided to drop Maintenance Case No. 83/2009 and the criminal cases filed against each other.

6. Learned counsel for the petitioner submits that the



learned Principal Judge, Family Court, Saran at Chapra vide his order dated 02.06.2016 passed in Divorce Case No. 45/2016 has ordered that “the case be and the same is decreed in terms of the compromise and the marriage is dissolved between the petitioner and opposite party. The compromise petition will be part of the decree....”

7. In view of the aforementioned developments, which have taken place during pendency of the present application, considering the special feature of the case that the whole dispute was on account of matrimonial discord between the petitioner and the opposite party no. 2 and the nature of allegations in the F.I.R. were even otherwise such that those were arising out of animosity prevailing at the relevant time between the parties. In view of the fact that the parties have decided to live peacefully without filing any case against each other, at this stage the prosecution of the petitioner would not be in the interest of justice and the order taking cognizance in the present case is fit to be quashed.

8. Having heard learned counsel for the petitioner, this Court has noticed that the opposite party no. 2, even though had appeared through an advocate in this Court but did not choose to oppose this application.

9. Following the ratio laid down by the Hon’ble Supreme Court in the case of **B.S. Joshi & Ors. v. State of Haryana & Anr.**,



reported in **AIR 2003 SC 1386**; relevant paragraphs of which read as under:

“10. It was observed that in a criminal case, the veiled object behind a lame prosecution, the very nature of the material on which the structure of the prosecution rests and the like would justify the High Court in quashing the proceeding in the interest of justice and that the ends of justice are higher than the ends of mere law though justice had got to be administered according to laws made by the legislature.....”

“12. The special features in such matrimonial matters are evident. It becomes the duty of the Court to encourage genuine settlements of matrimonial disputes.”

the order taking cognizance and the issuance of summons impugned in the present application is hereby quashed.

(Rajeev Ranjan Prasad, J)

Dilip, AR

AFR/NAFR	NAFR
CAV DATE	12.07.2017
Uploading Date	19.07.2017
Transmission Date	19.07.2017

