

**IN THE HIGH COURT OF JUDICATURE AT PATNA**

**Criminal Miscellaneous No.30198 of 2012**

Arising Out of P.S.Case No. -170 Year- 2008 Thana -null District- JEHANABAD

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1. Anil Kumar Mahto S/O Late Teni Mahto R/O Village - Tarwan, P.S. Wazirganj, District - Gaya
  2. Umesh Mahto @ Binod Mahto S/O Late Teni Mahto R/O Village - Tarwan, P.S. Wazirganj, District - Gaya
  3. Rajendra Mahto S/O Late Baselaal Mahto R/O Village - Jakknapur, District - Patna

.... .... Petitioners

Versus

1. The State Of Bihar
2. Ram Pravesh Singh S/O Late Rajdeo Singh R/O Village - Bada, P.S. Anoala, Distt. - Arwal At Jehanabad

.... .... Opposite Parties

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**Appearance :**

For the Petitioners : Mr. Ajay Kumar Sinha, Advocate  
For the State : Mr. Brij Kishore Prasad, APP  
For the O.P.No.2 : Mr. Ashok Kumar, Advocate.

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**CORAM: HONOURABLE MR. JUSTICE SANJAY KUMAR**

**ORAL JUDGMENT**

**Date: 26-04-2017**

Heard both the sides.

2. The petitioners seek quashing of order dated 13.11.2008 passed by Smt. Rachana Raj, Judicial Magistrate, Ist Class, Jehanabad in Trial No.2814 of 2011 arising out of Complaint Case No.170 of 2008 whereunder the court below finding prima-facie case for the offence under Sections 420 and 406 of the IPC ordered for issuance of summons against them.

3. The complainant Opposite Party No.2 filed a complaint case on the file of CJM, Jehanabad alleging therein that the Opposite



Party No.2 took an amount of Rs.80,000/- in cash and articles worth Rs.10,000/- towards dowry in connection with finalization of marriage of daughter of complainant with petitioner no.1. The petitioner nos.2 to 3 are alleged to be the either members of his family or the mediators.

4. The counsel for the petitioners submits that from the allegation no offence under Sections 420 and 406 of the IPC is made out as nothing was given as dowry to any of the petitioners. There was absolutely no talk or negotiation for marriage between the parties. He further submits that the matter in dispute has been settled between the parties on account of intervention of well-wishers and a compromise petition to this effect has been filed before the court below also.

5. On the other hand, the counsel for the Opposite Party No.2 as well as APP for the State opposed the submission.

6. On going through the material on record, I find that the complainant has not stated about a definite date of negotiation of marriage between the parties. The date of giving money to the tune of Rs.80,000/- and details of articles which were allegedly given to the petitioners has also not been disclosed in the complaint petition. It further appears that petitioner no.1 has also filed a case bearing no.87 of 2007 for the offence under Sections 323, 504 and 506 of the IPC which is presently pending in the Court of Sri Anant Kumar Singh,



Judicial Magistrate, Ist Class, Gaya. From para-9 of the complaint petition, it appears that petitioner no.1 was already a married person at the time of negotiation for marriage. The allegation of demand and payment of money as dowry also appears vague. The complaint case has been filed after two years of alleged settlement of marriage. It further appears that the parties have also entered into compromise. The certified copy of compromise petition on record shows that both parties have put their signatures on compromise petition and the Opposite Party No.2 does not want to proceed with the case. So in view of compromise between the parties and also considering the materials on record, I find that the continuance of proceeding before the court below would be abuse of the process of the Court.

7. As such, the order taking cognizance against the petitioners is set aside and the petition is allowed.

**(Sanjay Kumar, J)**

B.Kr./-

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