

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.51513 of 2015

Arising Out of PS.Case No. -2 Year- 2015 Thana -BAHADURPUR District- PATNA

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1. Saryug Prasad Yadav, Son of Late Madho Prasad Yadav,
 2. Rama Devi, wife of Sri Saryug Prasad Yadav.
 3. Srikant Yadav, son of Sri Saryug Prasad Yadav
 4. Dolly Kumari @ Dolly Devi wife of Shrikant Yadav,
 5. Amrendra Kumar Yadav, son of Sri Saryug Prasad Yadav.
 6. Minu Kumari @ Minu Yadav wife of Amrendra Yadav.

All are resident of Mohalla- Jai Mahavir Colony, Sandalpur, P.S. Bahadurpur,
District & Town Patna.

... Petitioners

Versus

1. The State of Bihar.
2. Seema Singh, wife of Kumar Sajan, daughter of Sri Arvind Kumar Singh presently residing at East Defense Colony, New Raghurampur, Chandmar, Danapur Cantt. P.S.- Danapur, Dist. Patna.

.... Informant-Opposite Parties

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Appearance :

For the Petitioner/s : Mr. Nilanjan Chatterjee, Advocate
For the Opposite Party no.2 : Mr. Manoj Kumar No.1, Advocate
For the State : Mr. Jharkhandi Upadhyay, APP

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CORAM: HONOURABLE MR. JUSTICE ASHWANI KUMAR SINGH

ORAL JUDGMENT

Date: 29-08-2017

This application under Section 482 of the Code of Criminal Procedure (for short 'Cr.P.C.') has been filed by the petitioners for quashing the order dated 21.08.2015 passed by the learned Judicial Magistrate-1st Class, Patna City, Patna in Bahadurpur P.S. Case No.2 of 2015 whereby and whereunder the



learned Judicial Magistrate has summoned the petitioners and one Kumar Sajan after taking cognizance of the offence under Sections 341, 323, 498-A and 504/34 of the Indian Penal Code and Section 3 and 4 of the Dowry Prohibition Act.

2. It is alleged in the first information report (for short 'FIR') by informant that she was married to Kumar Sajan, the youngest son of petitioner nos. 1 and 2 on 09.12.2011 at Patna. At the time of marriage, her father had given a gift of Rs.15.00 lacs and one Hyundai i-10 Sports Car besides the other household goods, such as sofa set, diwan, dining set, dressing table, LCD TV, double door fridge, washing machine etc. with ornaments of gold and silver costing about Rs.5.00 lacs. It is stated that after marriage, she started living in her sasural and gave birth to a male child. She also went to abroad to live with her husband. It is stated that later on some differences arose and the accused persons started subjecting the informant to cruelty in various ways. They started beating her, snatched her mobile phone, her gold chain, bangles and ring. The informant has further alleged that she was beaten on her right and left legs and on the whole body. She somehow saved herself and reached Bahadurpur Police Station and called her father. She has further alleged that she was beaten by her in-laws at the instance of her husband, who was settled in U.K. and had tutored his parents and



family members so that the informant may leave the house. She has further alleged that they were asking for Rs.20.00 lacs as a condition to allow her to live in her house. On the basis of the aforesaid allegations, the FIR has been instituted against the petitioners and Kumar Sajan.

3. Assailing the impugned order dated 21.08.2015, Mr. Nilanjan Chatterjee, learned counsel for the petitioners has submitted that the FIR arose out of matrimonial dispute between Kumar Sajan and the informant with which the petitioners had no concern. He has submitted that the petitioners have been made accused in this case only because they happen to be the relatives of the husband of the informant. He has submitted that the petitioner nos. 1 and 2 are father-in-law and mother-in-law of the informant and the petitioner nos. 3 and 5 are the elder brothers of the husband of the informant and the petitioner nos. 4 and 6 are the wives of the petitioner nos. 3 and 5 respectively. He has submitted that the husband of the informant Kumar Sajan had sought a decree of divorce in the Matrimonial Case No. 10 of 2015 filed before the learned Principal Judge, Family Court, Patna. However, the said case has been compromised between the parties and by order dated 15.05.2017 the matrimonial suit has been dismissed as withdrawn, as during pendency of the application, the dispute between the parties



was amicably resolved and now the informant is living together happily at London with her husband Kumar Sajan. He has submitted that since husband and wife have resolved their disputes and informant does not want to proceed with the criminal case, the prosecution of the petitioners in the criminal case would amount to an abuse of the process of the court.

4. Mr. Manoj Kumar, learned counsel appearing for the informant Seema Singh (opposite party no.2) has submitted that the informant is no more interested in pursuing the criminal case against the petitioners or her husband. He has conceded that with the intervention of well-wishers, the parties have amicably resolved their disputes and differences and the informant and her husband have come together to live happily as husband and wife.

5. A counter affidavit has also been filed on behalf the opposite party no.2. Paragraph nos. 3 to 7 of the said counter affidavit are extracted hereinbelow:-

“3. The opposite party no.2 had earlier lodged the F.I.R. on some mistaken facts and allegations as she was unable to understand and fully appreciate the circumstances prevailing at the relevant time arising out of matrimonial discord.

4. That at this stage with the intervention of the well wishers the parties have amicably resolved the disputes and differences and both of them have come together to live happily as husband and wife



and to take care of their only male child who needs care and protection of both the parents.

5. That the parties fully understood the dispute mainly arose because of the land transaction in which the land was purchased in the name of opposite party no.2 out of the funds provided by Kumar Sajan (husband of the petitioner). The opposite party no.2 is always ready and willing to transfer the said land in favour of her husband as and when he demands.

6. That in order to maintain a cordial relationship and good matrimonial home it is necessary to stop fighting on this kind of litigation and hence it is in the interest of each and all that the present criminal proceeding be quashed in the interest of justice by this Hon'ble Court.

7. That the opposite party no.2 would, therefore, submit that in the nature of the present case this Hon'ble Court may exercise its inherent jurisdiction to quash and cancel the entire criminal proceeding against the accused persons including the petitioners."

6. Mr. Manoj Kumar, learned counsel for the opposite party no.2 has submitted that no threat, coercion or inducement has been made by the petitioners at any point of time and the parties have voluntarily compromised the case.

7. I have heard learned counsel for the parties and



perused the record.

8. The facts of the case are not in dispute. Learned counsel for the opposite party no.2 has accepted the fact that the informant is happily residing with her husband and she is leading her healthy conjugal life and there is no further complication in her matrimonial life.

9. Though, the offence punishable under Section 498-A of the IPC is not compoundable under Section 320 of the Cr.P.C. under certain circumstances, this Court may quash the criminal prosecution in exercise of power under Section 482 of the Cr.P.C. In this regard, a three-judge bench of the Supreme Court in **Gian Singh Vs. State of Punjab [(2012) 10 SCC 303]**, has laid down detailed guidelines. The relevant observations of the Supreme Court are 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-dominantly 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 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 affirmative, the High Court shall be well within its jurisdiction to quash the criminal proceeding.”

10. Thus, it would be manifest that heinous and serious offences like murder, rape, dacoity etc. cannot be quashed even though the victim or victim’s family and the offender have settled the dispute. Similarly corruption cases and other similar offences committed by public servants while working in that



capacity cannot be quashed on the basis of compromise. However, the criminal cases, which are mainly of civil nature, particularly the offences arising from commercial, financial, mercantile, civil, partnership or the offences arising out of matrimony relating to dowry, etc., where the wrong is basically private or personal in nature and the parties have resolved their disputes may be quashed in exercise of powers conferred under Section 482 of the Cr.P.C.

11. In **Jitendra Raghuvanshi & Ors. Vs. Babita Raghuvanshi & Anr. [(2013) 4 SCC 58]** also, the Supreme Court examined the scope and ambit of powers of the High Court under section 482 of the Code in quashing of the criminal proceedings in non-compoundable offences relating to matrimonial disputes. It held in paragraphs 15, 16 and 17 as under :-

“15). In our view, it is the duty of the courts to encourage genuine settlements of matrimonial disputes, particularly, when the same are on considerable increase. Even if the offences are non-compoundable, if they relate to matrimonial disputes and the court is satisfied that the parties have settled the same amicably and without any pressure, we hold that for the purpose of securing ends of justice, Section 320 of the Code would not be a bar to the exercise of power of quashing of FIR, complaint or the subsequent criminal proceedings.



16) There has been an outburst of matrimonial disputes in recent times. The institution of marriage occupies an important place and it has an important role to play in the society. Therefore, every effort should be made in the interest of the individuals in order to enable them to settle down in life and live peacefully. If the parties ponder over their defaults and terminate their disputes amicably by mutual agreement instead of fighting it out in a court of law, in order to do complete justice in the matrimonial matters, the courts should be less hesitant in exercising its extraordinary jurisdiction. It is trite to state that the power under Section 482 should be exercised sparingly and with circumspection only when the court is convinced, on the basis of material on record, that allowing the proceedings to continue would be an abuse of the process of the court or that the ends of justice require that the proceedings ought to be quashed. We also make it clear that exercise of such power would depend upon the facts and circumstances of each case and it has to be exercised in appropriate cases in order to do real and substantial justice for the administration of which alone the courts exist. It is the duty of the courts to encourage genuine settlements of matrimonial disputes and Section 482 of the Code enables the High Court and Article 142 of the Constitution enables this



Court to pass such orders.

17) In the light of the above discussion, we hold that the High Court in exercise of its inherent powers can quash the criminal proceedings or FIR or complaint in appropriate cases in order to meet the ends of justice and Section 320 of the Code does not limit or affect the powers of the High Court under Section 482 of the Code. Under these circumstances, we set aside the impugned judgment of the High Court dated 04.07.2012 passed in M.CR.C. No. 2877 of 2012 and quash the proceedings in Criminal Case No. 4166 of 2011 pending on the file of Judicial Magistrate Class-I, Indore.”

12. Thus, it would be evident from the decisions of the Supreme Court noted above that cases instituted under Section 498-A of the IPC, which under Section 320 of the Cr.P.C. could not be compounded, can now be quashed if spouses resolve their dispute and resume conjugal relations.

13. As a matter of fact the Supreme Court has cast a duty upon the courts to encourage genuine settlements of matrimonial disputes.

14. In the present case, the entire controversy had arisen due to domestic and matrimonial discord and differences and since the matter has amicably been settled and the informant is not



willing to pursue the matter as she is happily residing with her husband in her matrimonial home, in the opinion of this Court, no useful purpose would be served by continuing with the criminal trial of the petitioners.

15. Consequently, and keeping in mind the decision of the Supreme Court rendered in **Gian Singh** (supra) and **Jitendra Raghuvanshi** (supra), I am of the view that allowing the criminal prosecution to continue in the present case may lead to insurmountable harassment, agony and pain not only to the accused, but also to the informant and even other common relatives. It may even spoil the matrimonial life of the couple, which could be saved due to intervention of friends and well wishers.

16. Accordingly, the impugned order dated 21.08.2015 and all subsequent orders passed by the learned Judicial Magistrate-1st Class, Patna City, Patna in Bahadurpur P.S. Case No.2 of 2015 are hereby quashed.

17. The application stands allowed.

(Ashwani Kumar Singh, J.)

Sanjeet/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	08.09.2017
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