

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Revision No.1230 of 2016

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Hari Shankar Sah, Son of Shri Mukhlal Sah, Resident of Village-Sahejani, P.S.-
Piro, District-Bhojpur (Ara)

.... Petitioner/s

Versus

1. The State of Bihar
2. Pramila Devi, daughter of Munni Lal, Resident of Village-Madhopur, P.S.-
Bakhtiyarpur, District-Patna

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Manoj Priyadarshi, Advocate.
Mr. Ajay Kumar Singh, Advocate.

For the State : Mr. Nagendra Prasad, A.P.P

For the O.P. No. 2 : Mr. Bharat Bhushan, Advocate.

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CORAM: HONOURABLE MR. JUSTICE ARUN KUMAR

ORAL JUDGMENT

Date: 06-12-2017

Heard learned counsel for the petitioner, learned counsel
for the State and learned counsel for the O.P. No. 2.

2. Petitioner has preferred this revision application, being
aggrieved against the judgment and order dated 10.11.2016 passed by
the Additional Sessions Judge-VI, Barh, Patna in Criminal Appeal
No. 26 of 2016 by which he has upheld the conviction and sentence of
the petitioner passed by the trial court in Complaint Case No. 99(C) of
1999 convicting the petitioner under Section 498A of Indian Penal
Code and sentenced to undergo simple imprisonment for three years
and further directed to pay Rs. One lac towards compensation under



Section 357 Cr.P.C.

3. Learned counsel for the petitioner submits that petitioner (husband) had also filed a divorce suit, being Matrimonial Case No. 16 of 1996, and in the said divorce suit, divorce decree was awarded on 26.06.2015 by the Principal Judge, Family Court Patna dissolving the marriage between them and also granted permanent alimony to the wife. Being aggrieved by the aforesaid judgment, both sides filed Misc. Appeal No. 423 of 2015 and Misc. Appeal No. 295 of 2015 and both sides appeared in the court and agreed to settle the dispute and the Miscellaneous Appeals were disposed of with a direction to the husband to deposit Rs. 10 lacs to the wife and Rs. 5 lacs to the disabled daughter as a full and final settlement and also ordered for taking steps for withdrawing all criminal cases filed by the husband and wife including the present complaint Case No. 99C of 1999, giving rise to the present revision application.

4. Learned counsel for the petitioner further submits that though offence is not compoundable in view of Section 320 of the Code of Criminal Procedure (hereinafter referred to as the 'Code') but in several decisions, the Hon'ble Apex Court as well as the different High Courts including the Hon'ble Patna High Court have held in case of matrimonial disputes if the case get settled between both sides, all the criminal proceedings even after conviction at the revisional or



appellate stage, may be set aside in the interest of justice. Learned counsel has placed reliance to the case of ***B.S.Joshi & Anr. vs. State of Haryana & Anr.*** reported in (2003) 4 SCC 675 and in the case of ***Wasi Asgar & Ors. vs. The State of Jharkhand & Anr*** passed in ***Cr. Revision No. 239 of 2015*** on 15.07.2015..

5. Learned counsel appearing on behalf of the O.P. No. 2 (wife), admits the facts of compromise in the matter at the stage of hearing of Miscellaneous Appeals and as per the direction of the Court total amount fixed for permanent alimony, has been received by the wife and both sides have agreed to withdraw their respective cases lodged against each other.

6. The decision in ***B.S.Joshi (supra)*** is relevant in the context. The Apex Court has decided the issue that whether FIR or complaint filed by the wife under Sections 498A and 406 of I.P.C., the prayer of the husband for quashing the criminal proceedings on the basis of compromise can be declined on the ground as the offences are non-compoundable under Section 320 of the Code. The Apex Court decided the issue in affirmative holding therein that High Court in exercise of its inherent powers can quash criminal proceedings or FIR or complaint and in such circumstances Section 320 of the Code does not limit or affect the inherent powers of the High Court under Section 482 of the Code. In this judgment para 14 is most relevant,



which is quoted hereinbelow:

“14. There is no doubt that the object of introducing Chapter XX-A containing Section 498A in the Indian Penal Code was to prevent torture to a woman by her husband or by relatives of her husband. Section 498-A was added with a view to punishing a husband and his relatives who harass or torture the wife to coerce her or her relatives to satisfy unlawful demands of dowry. The hypertechnical view would be counterproductive and would act against interests of women and against the object for which this provision was added. There is every likelihood that non-exercise of inherent power to quash the proceedings to meet the ends of justice would prevent women from settling earlier. That is not the object of Chapter XX-A of the Indian Penal Code.”

7. The principle laid down in the ***B.S.Joshi*** (supra) case squarely applies in the present case also. The complainant/wife has compromised the matter with the husband, the petitioner of the case, and agreed to withdraw all cases including the present one. The Apex Court has remarked that in such matters, hypertechnical view would be counterproductive and would act against the interests of women and against the object for which this provision was added. In the present case, since the matter has been compromised, Section 320 of the Code does not come in the way of exercising the inherent powers of this Court coupled with inherent jurisdiction for setting aside the conviction of the petitioner under Section 498A of I.P.C.



8. Consequently, the concurrent findings of conviction of the court below against the petitioner in connection with Complaint Case No. 99(C) of 1999 are hereby set aside. Since the petitioner is on bail so stands discharged from liability of bail bond. The application stands allowed.

(Arun Kumar, J)

Sujit/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	15.12.2017
Transmission Date	15.12.2017

