

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.39921 of 2013

- =====
1. Md. Rashid Sheikh S/O Sri Sarif Sheikh Resident Of Village- Chistiya Complex, Room No.-406, 2nd Rabri Thane, Thane (Maharastra)
 2. Sarif Sheikh S/O Late Faujdar Sheikh Resident Of Village- Chistiya Complex, Room No.-406, 2nd Rabri Thane, Thane (Maharastra)
 3. Mahjavin Sheikh @ Ginni W/O Sri Sarif Sheikh Resident Of Village- Chistiya Complex, Room No.-406, 2nd Rabri Thane, Thane (Maharastra)
 4. Md. Sahid Sheikh S/O Sri Sarif Sheikh Resident Of Village- Chistiya Complex, Room No.-406, 2nd Rabri Thane, Thane (Maharastra)

.... Petitioner/s

Versus

The State Of Bihar

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Sri A.K. Takhur

Mr. Ravi Ranjan

For the Opposite Party no.2 Mr. Raj Dular Sah

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CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR
UPADHYAY
ORAL ORDER

5 28-06-2017 Heard learned counsel for the petitioners, learned
counsel for the opposite party no.2 and learned counsel on behalf
of the State.

The instant application has been filed by the
petitioners for quashing of the order dated 10.07.2013 passed by
learned Chief Judicial Magistrate, Darbhanga in Hayaghat P.S.
Case No. 33 of 2012 whereby the learned Magistrate took
cognizance against the petitioners for the offence under sections
341, 323, 379, 498(A), 504, 506 of the Indian Penal Code and
Section 3/4 of the Dowry Prohibition Act.



Vide order dated 1.10.2013, this court directed the petitioner to implead the complainant as opposite party No.2 and issue notice to opposite party no.2 and there was ad-interim stay of operation. After service of notice, counsel for opposite party no.2 appeared. However, on 13.4.2017 no one appeared on behalf of the informant-opposite party no.2, hence, the petition was admitted for hearing and lower court record was called for vide order dated 13.4.2017.

After order dated 13.4.2017, it appears that parties have amicably settled the dispute and after resolving their disputes, they have filed a joint compromise petition before this court on 16.5.2017 in view of the fact that after order dated 13.4.2017, lower court record was called for by this Hon'ble Court. In the compromise petition filed on 16.5.2016, on affidavit, it was jointly stated that the parties have entered into a compromise and they have decided to withdraw all their cases.

For ready reference, the statement made in joint compromise petition at paras 3 to 6 are quoted below:-

“That the present case has been arisen out of matrimonial dispute and at this stage the informant/opposite party no.2 does not want to contest the case further and by intervention of well wisher of both parties, the matrimonial dispute has



been amicably settled by the parties out of the court.

That the informant and petitioner no.1 undertakes that all cases filed by both parties shall be withdrawn by them. No further matrimonial dispute would arise further between the parties. Hence, this joint compromise application is being filed by the informant/opposite party no.2 and the petitioner no.1.

That both parties have agreed that they shall lead their lives separately and no further dispute shall arise between the parties.

That since the lower court record has been called for and further proceeding of lower court has been stayed by this Hon'ble Court by order dated 13.04.2017, hence this application is being filed before this Hon'ble court.

The opposite party no. 2 has joined the compromise and joint compromise petition was filed on 16.5.2017 and 16.5.2017. Since the present case arises out of matrimonial dispute and both the parties have decided not to contest any further as they have settled their matrimonial dispute amicably out of the court.

Having regard to the fact that parties have entered into the compromise and I.A. No. 1091 of 2017 has been filed by



opposite party no.2 for recording compromise in the present proceeding, this court deem it fit and appropriate to allow compromise between the parties as the present case arises out of a matrimonial dispute and Apex Court in the case of **Jitendra Raghuvanshi and Ors. Vs. Babita Raghuvanshi and another reported in 2013 volume-4 SCC 58** in paragraph 16 has reminded the court about jurisdiction under section 482 of Code of Criminal Procedure.

Paragraph 16 is quoted below for ready reference:-

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 dispute 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 their 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



process of 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.”

In view of the judgment of the Hon’ble Apex Court in Jitendra Raghuvanshi and ors. Vs. Babita Raghuvanshi and anr. (supra), for the ends of justice the joint compromise petition filed by the petitioners and opposite party no.2 and I.A. No. 1091 of 2017 filed by the opposite party no.2, the joint compromise petition is accepted and accordingly, entire criminal proceedings in Hayaghat P.S. Case No. 33 of 2012 is quashed.

This application is accordingly allowed in terms of joint compromise petition as mentioned above.

(Anil Kumar Upadhyay, J)

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